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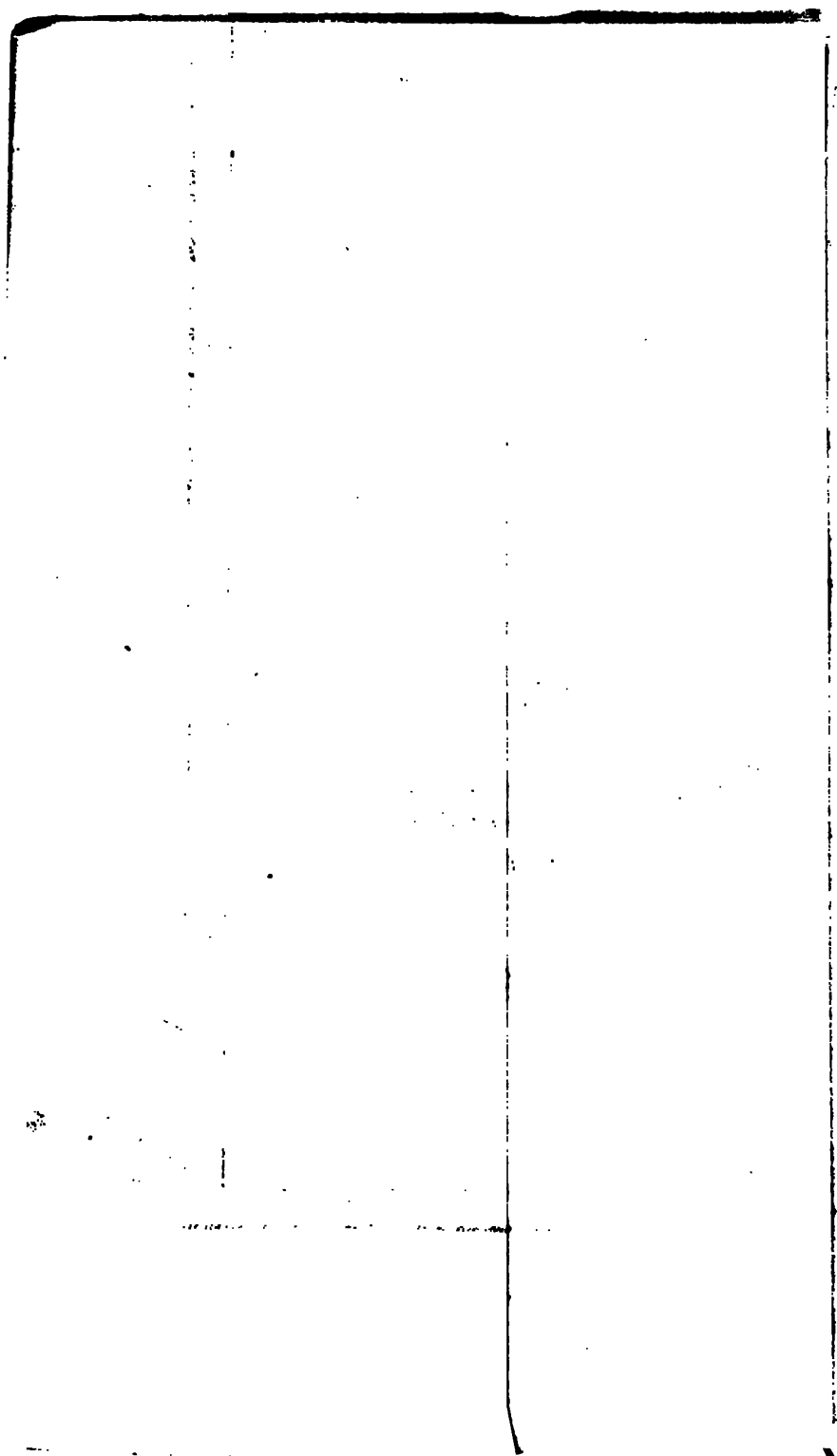


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OBSERVATIONS
UPON
THE TREATY OF WASHINGTON,

SIGNED AUGUST 9, 1842;

WITH
THE TREATY ANNEXED.

TOGETHER WITH
A MAP,
TO ILLUSTRATE THE BOUNDARY LINE AS ESTABLISHED BY THE TREATY BETWEEN
HER MAJESTY'S COLONIES OF NEW BRUNSWICK AND CANADA
AND THE UNITED STATES OF AMERICA.

BY
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LATE ONE OF HER MAJESTY'S COMMISSIONERS FOR
THE NORTH AMERICAN BOUNDARY.

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OBSERVATIONS
UPON
THE TREATY OF WASHINGTON,

SIGNED AUGUST 9, 1842.

It will create surprise in some persons to find an inveterate opposition produced to the Treaty of Washington in the United States, that country which will benefit so much by its provisions; but in Treaties of delimitation betwixt independent States, it often happens that individuals suppose they can find just cause for dissatisfaction, both of a public and private nature; for being almost invariably founded upon a compromise of conflicting interests and jurisdictions, they can scarcely be closed without opening a door to the reproaches of interested and offended persons. Those who do not conceive their private interests to have been satisfactorily secured are generally loud and unceasing in the expression of their disapprobation, whilst those who feel that they have nothing left to desire, attribute their good fortune to

the justice of their claims, and are slow to praise, even when they owe it to the most painful and meritorious exertions of others. Thus Treaties, even when they are in every sense well timed and deserving of the public confidence, are frequently more vehemently assailed than they are defended.

But even the objections which are made to Treaties upon public grounds have sometimes their origin also in private feeling, for when a Treaty has been so judiciously made as to furnish no just ground of discontent to private individuals, and no substantial reasons for provoking the censure of public opinion, its very merits sometimes conjure up opponents, and it is arraigned, not from a sincere conviction of its demerits, but from a deep sense of disappointment at seeing others reap the glory of accomplishing an eminent service to their country, in the harvest of which circumstances had denied them any participation.

Now, although these remarks apply more particularly to the United States, where personal interests were mixed up in the Boundary question, and where the Treaty, like every other great measure, was exposed to strong political opposition, still it has not escaped animadversion in our own country. Happily, however, this has not been of an uncompro-

mising character, and has already given way to calmer views of those practical benefits, which all who are interested in the preservation of peace and friendship between Great Britain and America are glad to entertain.

The defence, therefore, of this important public act might, on the part of this country at least, have been safely left to its own operation, if the opposition to it had been confined to the people that were parties to it. This has not been the case. A writer* of ability in a neighbouring nation, appearing to be influenced by a jealous impatience at the prosperity and glory of England, and mistaking the motives and the conduct of her Government, has studiously engaged in misrepresenting both, and seems to wish, with perverse energy, to lower Great Britain in the eyes of the nations of Europe, from the high moral position she has taken.

And as a great majority of those who constitute public opinion in all countries have neither the time nor the means to form an accurate judgment of the real value of those controversial statements, assertions, and arguments which are advanced, it becomes the fit and natural duty of those who are differently situated, and indeed of

* *Revue des Deux Mondes*. Diplomatie Etrangère. Du nouveau Traité entre l'Angleterre et les Etats Unis.—*Paris, Octobre, 1842.*

every Englishman who is alive to the estimate which should be formed of the honour of his country abroad, to vindicate, according to his ability, those public acts of his Government which can be shown, by the test of truth and reason, to be founded in wisdom and justice.

The discussions which have taken place at home and abroad upon the merits of this Treaty, have not only suggested these reflections, but have prompted the author of these pages to endeavour to give a lucid and plain statement of the true meaning of the Treaty of Washington, for the purpose of correcting many misrepresentations respecting it that seem, for the most part, to have grown out of an imperfect acquaintance with the subject. He submits, therefore, to the public a short narrative of the circumstances which led to it, accompanied with a fair yet brief examination of its whole purport, having no apprehension of failing in his principal object, which is, to establish a general conviction that it is eminently consistent with the honour and interests of Great Britain.

It is a curious illustration of what has been stated, and may serve as a measure of the intrinsic value of this Treaty, that at its promulgation, it was simultaneously denounced both in Great Britain and in the United States of America, as an act by which Lord Ashburton

and Mr. Webster had tarnished the honour and surrendered the interests of their respective countries. The accusers of Lord Ashburton charged him with having so far failed in his duty, that he had in the way of compromise made concessions to America that wounded the honour of England; not attending to the fact, that his mission was produced by a critical and menacing state of things, and was altogether a measure of friendly compromise, necessary to the prosperous intercourse of the two greatest commercial countries in Christendom. In like manner, Mr. Webster was accused of abandoning the claim of the State of Maine, and of sacrificing the honour of his country; although he was especially authorized by the President of the United States to treat for a conventional line, that was not to correspond with that claim. The exhibition, however, of these partial discontents had not the effect of disturbing the calm action of the two Governments, which were no doubt both anxious to give effect to the peaceful arrangement that had been so happily accomplished; for the Senate of the United States immediately proceeded to ratify the Treaty upon its signature, by a majority of thirty-nine to nine: and Her Majesty's Government lost no time in giving it their sanction, and returning it to America at the earliest moment. Thus did a

vexatious question, which had frequently threatened the peaceful relations of England and America, become closed for ever upon terms consistent with the conviction each sincerely appeared to entertain of its rights, and the respect which was due to the peace of mankind.

As in attempting a vindication of the Treaty of Washington, it will be necessary to advert briefly to the state of our late territorial dispute with the United States at the period when Lord Ashburton entered upon his mission, a rapid sketch will now be given of the history of the controversy, referring the reader, who may be desirous of consulting its details, to the various publications in which they are to be found.

In the Second Article of the Treaty of Peace of 1783, the northern frontier of the United States is fully described as running along certain "Highlands" dividing rivers flowing into the St. Lawrence from rivers flowing into the Atlantic Ocean, and thence by a specified line westward to the river Mississippi.

This frontier, which in its whole distance was conterminous with the British dominions in Canada, extended about 2,300 miles, and the only portion of it of which the description could be considered so doubtful as to permit a question to be raised concerning the intentions of the negotiators respecting it, was the com-

mencement from the "Highlands" to the Connecticut river, a distance of about 200 miles.

Up to the year 1792, this part of the country was a wilderness of forests, lakes, and morasses, only known to a few Indians, who occasionally frequented it for the chase; but about that period, the citizens of the present State of Maine, which is the most eastern of the United States, began to survey and occupy portions of it, although it had never been considered to have been conceded to the new republic, and had always been believed to belong to the Crown. This encroachment was followed by their claiming as the Treaty boundary a line of "Highlands" that would have brought the United States, at certain points, within the distance of twenty miles from the St. Lawrence, that would have cut off from Great Britain the established military and post routes leading from the provinces of Nova Scotia and New Brunswick to Quebec, and would have given to the Americans various military positions overlooking the river St. Lawrence, and from whence they could have threatened the fortress of Quebec.

No person out of the United States believed that such an arrangement of the frontier was consistent with even the intentions of the Commissioners, who, on the part of America, nego-

ulated the Treaty of 1783, and it was impossible to suppose that the British negotiators upon that occasion would have consented to, or that the King's Government of that day would have ratified an unfriendly, menacing, and impracticable frontier, that was unnecessary to the United States, was antagonist to the whole spirit of the Treaty, and inconsistent with the proceedings of the Commissioners by whom it had been negotiated.

War broke out between the two countries in 1812, but was happily followed by the Treaty of Peace at Ghent, in 1814. At the period when the Commissioners of the two countries met at this place, the dispute respecting this frontier had not excited much attention, and the geographical details, upon which alone a proper judgment could at that time have been formed as to the equity of the case, if not exclusively confined to the Americans, were but imperfectly known to the British Commissioners: they, however, were not ignorant of the pretensions that were to be brought forward, and perceiving that it was intended to urge them in a very serious manner, they adopted a course eminently calculated to forward the great object they were deputed to prepare the way for, viz. : the restoration of peace.

Instead, therefore, of entering upon a dis-

cussion of the respective rights of the two parties, which, as past experience has shown, would have led to no conviction, they proposed in their first communication with the American Commissioners—

“A revision of the boundary between His Majesty’s territories in America and those of the United States, not upon any principle of conquest or acquisition, but upon that of mutual advantage and security.” *Aug. 8, 1814.*

This proposition related to another portion of the general boundary betwixt the two countries, as well as to the north-eastern frontier of what was then called the District of Maine; but as it is only necessary upon the present occasion to speak of this last, it may be as well to give at once a brief statement of the difference existing between the two countries, arising from their respective claims, all the geographical relations of which will be further illustrated by the annexed Map.

The Territory in dispute amounted to something less than 7,000,000 acres of land, and was comprehended between two distinct lines claimed adversely to be the “Highlands” of the Treaty. Through the centre of this territory the western part of the course of the river St. John flowed, Great Britain claiming the Highlands of the Treaty to be south of that

river, whilst the United States asserted them to be identical with certain highlands running north of that river, and which overlook the St. Lawrence.*

This claim of the United States, as it will be seen by the map, could not be admitted without injurious consequences to the interests of the British Colonies; for, independent of other serious inconveniences, such an admission would have thrown the established military and post routes by which the important provinces of Nova Scotia and New Brunswick communicated with Quebec, into the United States; so that in the unfortunate event of a war with that country, Great Britain would have had a powerful and enterprising enemy lodged in the very heart of her colonial empire. The British negotiators, therefore, perceiving that there really was sufficient apparent ambiguity in the second article of the Treaty of 1783, upon which to raise a claim for a line of frontier hostile to the British construction of that article, and pregnant with serious misunder-

* A remark may be made here not undeserving the attention of all future negotiators of treaties of delimitation, that if the Commissioners of the Peace of 1783 had inserted after the word "Highlands," in the description of the boundary, the words "South of the St. John," or, "North of the St. John," no controversy on the subject could ever have taken place.

standings, proposed to remove all future uncertainty and doubt by negotiating.

“ Such a variation of the line of frontier “ as would secure a *direct* communication “ between Quebec and Halifax.”—*Aug. 19, 1814.*

The American Commissioners had admitted, upon the opening of the negotiations, that they were warranted by their instructions in agreeing to a revision of the Boundary; but, upon further consultation, those gentlemen considered their powers limited to cases where there was an obvious cause for uncertainty and dispute; and as the present claim of America was considered by them to have nothing uncertain about it, and to be perfect, they therefore declared that they had—

“ No authority to *cede* any part of the “ Territory of the United States, and to no stipulation to that effect will they subscribe.”—*Aug. 24, 1814.*

To this it was replied—

“ The American Plenipotentiaries must be “ aware that the boundary of the district of “ Maine has never been correctly ascertained; “ that the one asserted at present by the “ American government, by which the direct “ communication between Halifax and Quebec “ becomes interrupted, was not in contempla-

“tion of the British Plenipotentiaries who
 “concluded the Treaty of 1783, and that the
 “greater part of the Territory in question is
 “unoccupied.”—*Sept. 4, 1814.*

The American Plenipotentiaries adhering, however, to their determination, the British negotiators could only answer that—

“With respect to the boundary of the
 “District of Maine, the undersigned observe
 “with regret that, although the American
 “Plenipotentiaries have acknowledged them-
 “selves to be instructed to discuss a revision
 “of the boundary line, with a view to prevent
 “uncertainty and dispute, yet, by assuming
 “an exclusive right to decide what is, or is
 “not, a subject of uncertainty and dispute,
 “they have rendered their powers nugatory,
 “or inadmissibly partial in their operation.”—
Sept. 19, 1814.

This first attempt to compromise this territorial question was therefore rendered abortive, because the American Plenipotentiaries, notwithstanding that the greater part of them were gentlemen of distinction and influence in their native country, would not assume the responsibility of interpreting their powers in an effective manner; and, no doubt, for the reason that they were unwilling to set an example of proposing to bind their Government

in one of those cases where, according to their system of federation, the general Government is exposed to have its authority denied to conclude upon any arrangement of delimitation, without the special consent of that particular State or States whose interests are more directly concerned : an anomaly in Government which has influenced in a remarkable manner all the proceedings of this territorial dispute, up to the conclusion of the late negotiations at Washington.

Before dismissing this brief recital of the cause of this failure to compromise the boundary question at Ghent, it is almost impossible to refer to the conduct of the British Government of that day without just pride. At the period of these negotiations our country had issued from her terrible contest with Napoleon, full of glory and renown. She had no enemy in arms against her but the United States of America, and she was now at liberty to turn her veteran strength and her concentrated resources in that direction. But disregarding her overwhelming advantage, she did not hesitate to set the bright example of preferring the interests of peace and humanity to all selfish considerations ; and we find her Government then, as we find it at the present day, asserting her moderate pretensions, not to a boundary which

could in any manner be prejudicial to the United States, but to one which, whilst it was sanctioned by justice, was indispensably necessary to the security of her own colonies, and to the permanency of the friendship she was desirous of returning to, with a country peopled by a common ancestry.

The negotiation on this point ended in the adoption of the fifth article of the Treaty of Ghent, authorizing Commissioners on the part of each Government to survey the territory in dispute, and in case of disagreement, to "refer the Report or Reports of the said Commissioners to some friendly Sovereign or State, to be then named for that purpose; and who shall be requested to decide on the differences which may be stated in the said Report or Reports."

This contingency having occurred, a Convention was signed by the parties in 1827, for the purpose of proceeding in concert to the choice of an arbiter, whose decision was to be "final and conclusive," and for settling the manner in which the claims of the two Governments should be laid before him.

The King of the Netherlands having accepted the arbitration on the 12th of January, 1829, gave in his award on the 10th of January, 1831, deciding two of the three points which had been

submitted to him, in favour of Great Britain, but recommending and explaining a compromise of the principal question depending upon the position of the "highlands," because "the nature of the difference, and the vague and insufficiently defined stipulations of the Treaty of 1783, do not allow the adjudication of one or the other of these lines to one of the said parties, without departing from the principles of justice and of equity towards the other."

This compromise, it is true, preserved to Great Britain the established post route from New Brunswick to Quebec, which from Madawasca went north of the river St. John; but in a territorial point of view it was very prejudicial, for it stripped her of two-thirds of the square contents of the area of the country in dispute, and gave them to the United States, together with the navigation of the St. John for a distance of 150 miles from its source.

Nevertheless, on the 12th of January, 1831, only two days after the date of the award, Mr. Preble, himself a citizen of Maine, and then Chargé d'Affaires from the United States at the court of the King of the Netherlands, addressed a letter to Baron Verstolk de Soelen, protesting against the award, on the ground that the arbiter had exceeded the power conferred upon him, by substituting a boundary distinct from

that provided by the second article of the Treaty of 1783; and although the President of the United States deemed it consistent with his high duty to refer the award to the Senate for their advice and consent to give it his ratification, that body, acting under its constitutional power, rejected the decision which the King had given, in his quality of Arbiter and Mediator.

In the mean time, the British Government, looking to the pledge that had been given to consider the decision as "final and conclusive," and to the material point which was obtained by it, of preserving the communication between the King's provinces, not only did not protest against the injustice of the award, but immediately announced their willingness to abide by the act of mediation, if the United States would concur with them; and it was only on the 30th October, 1835, that, after repeated declarations on its part of a desire to give effect to the award, and as many refusals by the Government of the United States to do so, that Viscount Palmerston directed Mr. Bankhead "to announce to the President, that the British Government withdraws its consent to accept the territorial compromise recommended by the King of the Netherlands."

Subsequent to this period, protracted nego-

tiations were carried on for a new joint survey of the disputed territory, with a view to a second reference to an umpire; but the population of the State of Maine and of New Brunswick rapidly increasing, and the citizens of the former pushing their settlements northward, whilst from both Governments the disputed lands were resorted to for the purpose of cutting timber, it became every year more evident that further delay in the settlement of this question was pregnant with danger to the peace existing between the two countries: indeed, the events on the frontier in the early part of 1839 were of so menacing a character, that a daily collision between Her Majesty's troops and the militia of the State of Maine seemed inevitable, and must certainly have taken place but for the resolute yet temperate conduct of Sir John Harvey, Lieutenant-Governor of Her Majesty's Province of New Brunswick, aided by the prompt and most effectual interference of that distinguished person, H. S. Fox, Esq., Her Majesty's Envoy at Washington. The exertions of these gentlemen being happily seconded by the co-operation of the Federal authorities, a rupture on the frontier was prevented for the moment; but it became now evident that some peaceful measure must forthwith be adopted to bring this controversy to a termination; and as the pending

negotiations for a second survey and reference required the adjustment of many preliminaries before a convention could be signed, Viscount Palmerston, at that time Her Majesty's Secretary of State for Foreign Affairs, thought it advisable—whilst the negotiations were proceeding—to send two Commissioners to North America, with instructions to examine the physical character of the territory in dispute, and bring home such information as might enable Her Majesty's Government to understand clearly whether the boundary claimed by the United States of America was, or was not, in accordance with the language and intentions of the Treaty of 1783.

These Commissioners having completed their investigations in North America, returned home early in the year 1840. Up to this period the public servants of Great Britain who had been officially engaged in the conduct of this controversy, had acted under many disadvantages; they were unacquainted with the nature of the country, and had been unable, from various causes for which they were not responsible, to avail themselves of any authentic information respecting the intentions of the negotiators of the Treaty of Peace of 1783, beyond those meagre notices which had been at various times derived from some of the American

Commissioners of that period, previous to their decease. A consequence of this defective state of information with them was, that having no case sufficiently well founded to bring forward on the part of Great Britain, they were chiefly occupied on the defensive, resting the strength of their own case principally on the insufficiency of that of their opponents, which was manifestly inconsistent with the spirit of the Treaty: whilst these, availing themselves of their advantage, had gradually added to the exclusive character of their claim, reproaches loud and intolerable against our country, for wrongfully withholding an important territory, which they incorrectly alleged had been surrendered to the United States by the Treaty of 1783.

Under these circumstances, Her Majesty's Commissioners perceiving that the popular opinions respecting this important controversy were founded in many instances upon data so erroneous, that they had even misled the judgment of the King of the Netherlands, thought it their duty to review the whole diplomatic history of the dispute, before they finally drew up their Report. Prepared as they were to communicate the result of the geographical investigation they had been instructed to make, they were desirous of tracing to their true

causes all those incorrect statements which had so much prejudiced the British claim both at home and abroad. They believed that the moment was arrived when it was necessary to present a strong case for the consideration of Her Majesty's Government if the right and the honour of the country authorized it, or frankly to admit that the claim of Great Britain did not appear to them to be founded in truth and justice*. Under a deep sense, then, of their responsibility, they, after long and anxious investigation of the subject, determined to report in substance to Her Majesty's Government, that the line of "Highlands" claimed by America was inconsistent with the physical geography of the country, and with the intentions of the Treaty of 1783; and that the line of "Highlands" mentioned in the second Article of that Treaty did not lie to the north of the St. John, but to the south of that river.

This Report, accompanied with all the details necessary to the perfect understanding and confirmation of these conclusions, was

* On the day that Her Majesty's Commissioners entered the disputed territory to commence their investigations, they agreed, that on whatever side the evidence of right should appear to them to preponderate, they would frankly state their opinions to Government, that every possible chance might be avoided of further exasperating the dispute between the two countries.

intended, not only as a document upon which Her Majesty's Government might safely rely for the maintenance of the just rights of the country, but also as a full and sufficient refutation of the unfounded allegations that had been brought forward, in the progress of the controversy, of the want of good faith and integrity which had marked the character of the British claim. This claim was now shown to be such as the Government and the nation could approve, without fearing to compromise its character for justice and the sacred regard due to Treaties. It might be true that the existing state of things forbade the sanguine expectation that Great Britain could ever peacefully realize the claim established by this Report, and indeed its authors were far from thinking that the controversy ever could be settled but by a friendly compromise; but finding that they could conscientiously present a case to the world which relieved their country from every offensive imputation, they submitted their Report to Her Majesty's Government in 1840, by whom it was accepted, and officially communicated to that of the United States of America in June, 1840, previous to its being laid before Parliament in the month of July of the same year.

Before dismissing this part of the subject,

the Author would state that he has reason to suppose he is not presuming too far to believe that the British claim, as maintained in this Report, would have been substantially adhered to by Her Majesty's present Ministers if the mission of Lord Ashburton had failed, and it had been necessary to refer the controversy to an umpire for the second time.

Having brought the proceedings on the part of Great Britain up to this period, it becomes proper to advert briefly to the course of public opinion on this subject in the United States, where a belief of the exclusive right of that country to the whole territory appeared to be as general as the conviction now entertained in Great Britain, that she had never ceded any portion of it at the Peace of 1783.

The people of the States of Maine and Massachussetts were alone greatly interested in acquiring possession of the territory in dispute. Maine was directly conterminous with and claimed jurisdiction over it; whilst Massachussetts had a joint interest with Maine in her public lands, of which they claimed this territory to be a part. The States of New Hampshire and New York had also a small beneficial interest in the narrow territory adjacent to the 45° of north latitude, which the King of the Netherlands had decided was to

be re-surveyed. The other States of the Union had no interest whatever in the question, save that arising from a natural sympathy for the success of the cause of their sister States as against a Foreign Power. This sympathy had been evoked in a very powerful manner and with effect, for in July, 1838, the Senate of the United States, upon the Report of a Committee devoted to the discussion of the claim of Maine, unanimously passed the following resolution :—

“ After a careful examination and deliberate
 “ consideration of the whole controversy be-
 “ tween the United States and Great Britain,
 “ relative to the north-eastern boundary of the
 “ former * * * * * it (the Senate) enter-
 “ tains a perfect conviction of the justice and
 “ validity of the title of the United States to
 “ *the full extent of all the territory in dispute*
 “ between the two powers.”

This resolution, and the unanimity with which it passed in a body representing the sovereign power of each of the States of the Union, was considered throughout America as a solemn pledge on the part of the Senate, which is the Treaty-making power, that that body would not consent to any arrangement of the controversy, which fell short of a compliance with the whole claim of Maine.

From this moment it was easy to perceive that neither country would give way to the extent of the claim of its opponent, and that all men of good feelings and moderate counsels in the two countries would, sooner or later, desire to resort to a peaceful compromise, the object of the controversy not being of sufficient importance to justify a protracted contention, much less a destructive and sanguinary war, which, at its termination, would most probably leave both parties, as respected this question, in the same situation as at the commencement of the contest.

But it must be obvious to every one, that there were other considerations for Her Majesty's Government, independent of this view of the subject, in which men of sense concurred. Great Britain, by her unbounded enterprise and wealth, had attained a height of prosperity and renown hitherto unknown in the annals of nations. She had planted important colonies in every desirable part of the earth, and under her fostering care they seemed destined to become mighty branches of the parent stock, and to emulate it in those true sources of its glory, its religion, its good faith, and its industry. To these peace was necessary.

At home her manufacturing interests had

momentarily suffered by an over-production contemporary with a diminished demand ; and these concurring causes were greatly exaggerated by the concomitant and painful pressure of labour without adequate employment. To restore a demand for these productions peace was equally necessary.

In India and in China the country was engaged in expensive and uncertain contests, and these could not be retired from before they were brought to that honourable conclusion which on the part of Great Britain was the real object sought to be accomplished, and which, by the valour and energy of her warriors by sea and land, has since been most gloriously accomplished.

Looking, therefore, at the extraordinary and lofty position which the interests and power of our country had compelled her to assume as conservator of the peace of the civilized world, and to the stern necessity of that peace to the prosperity of every branch of her own industry, it is manifest that the Queen's Ministers, by pursuing the path of peace as long as it could be trod with honour and safety, were giving the highest proofs of their determination to administer the affairs of the empire with wisdom.

There would appear indeed to have been

but three lines of conduct for them to pursue, upon coming into power. Convinced of that extreme right of Great Britain which had been demonstrated, they might have chosen to adhere to it, and have kept open an irritating question which was daily endangering the peace between the two countries, and of Europe also. They might have protracted the negotiation with the United States, for the purpose of referring the controversy to another arbitration; but where was the security afforded by this course that, after the unavoidable irritations engendered by a delay of eight or ten years, and an expense beyond the value of the territory in dispute, political caprice and jealousy might not in the end decide the question against us? What rational course then was left but that of calling into action a principle which sometimes happily extinguishes discord in private controversies, by inducing the most powerful to make generous yet prudent concessions in the name of peace and friendship, and thus converts an apprehended enemy into a permanent and sincere friend! This, which promised to heal for ever the growing breach between the two countries, was the course which Her Majesty's Ministers wisely determined to follow.

But the weighty considerations, growing out of the foreign and domestic affairs of Great

Britain, which have been before alluded to, could not fail to have seriously engaged the attention of Her Majesty's Government towards the close of the year 1841, and to justify them in adopting that pacific mission to America from which Lord Ashburton has successfully returned. The period also was well chosen. The Government of the United States, embarrassed in an unusual manner by the derangement of their finances, could not be otherwise than desirous of extinguishing all the causes of discontent that had menaced an interruption to the friendly relations of the two countries, and that seemed to render peace uncertain. It was important to them to give their citizens an opportunity of restoring the wounded credit of their country, by placing peace with Great Britain upon a basis that would inspire some confidence with our commercial capitalists, a quarter to which it was evident they were looking with anxiety. There was the further encouraging circumstance also, that since the appearance of the British Report in 1840, symptoms of a very unambiguous kind had appeared in the United States, of a desire to recede from every claim of an exclusive character, and to enter into a fair compromise of the controversy respecting the disputed territory. We heard of no more pledges to unite in maintaining

their exclusive claim, and propositions for the first time appeared in the legislative proceedings of the State of Maine itself offering to compromise the dispute*.

On the other hand, it had become more difficult for Her Majesty's Government, at this time, to succeed in making an equitable compromise of the question than it might have been previous to the year 1839, on account of the state of things existing in the disputed territory itself. Before that period the whole district in dispute had been, with the exception of a very few settlers from both governments, on the Roostuc, an uninhabited wilderness. This was no longer the case. The State authorities of Maine had not only caused surveys of numerous townships of land to be made in various parts of the country betwixt the Roostuc and the St. John, but had caused one fortified blockhouse to be erected on the Roostuc, another at the mouth of Fish River, and a good road to be opened between the Roostuc and the St. John. These operations were of course attended with a corresponding influx of settlers, and nothing was wanting but a little more time to place all that portion of the disputed territory which lies between the last-mentioned rivers, in the

* *Vide* Reports of the Land Agent of Maine, 1841, 1842.

actual possession of hardy settlers from the State of Maine. This state of things had been brought about in a manner that was not to be prevented without having recourse to such forcible means as would inevitably have led to the collisions it was so desirous to avoid. Remonstrances against these encroachments had been constantly made by the British authorities to the Federal Government, and if they were not reluctantly attended to, at least in no instance was satisfaction promptly given, as may very well be supposed, from the fact that all communications of that nature were submitted to the authorities of Maine before any answer was given. To have prevented these encroachments, in the first instance, might, by possibility, have been done, provided all parties had concurred in a determination to do it; but the question of dispossessing all these people by force, when Her Majesty's present Ministers came into power, was a most serious one; and, as must be perceived, was a thing only to be accomplished by a state of war. Lord Ashburton's mission, therefore, as respected the Boundary question, was in fact to effect the compromise of a territorial question under adverse possession, an exceedingly disadvantageous position both in public and private controversies.

On his Lordship's arrival at Washington, he was met by satisfactory assurances, on the part of the Federal Government, of a sincere desire to co-operate with him in giving effect to his mission. This friendly feeling, unequivocally seconded as it was by public opinion in every part of the United States, would probably have led at once to an amicable settlement of the Boundary question, but for that anomaly in Government which has been before alluded to, and which, practically, left the executive branch of the United States without power to give any effect to what was deemed by that department consistent with the public welfare.

By the Federal constitution of that Government, the power of negotiating with Foreign countries is exclusively vested in the executive branch, subject to the ratification of the Senate, but as in this matter of the Boundary question the Federal Government had concurred with the State of Maine, as to the validity of its claim, it was barred by its own act from concluding any agreement with Great Britain to vary what had been assumed to be the Boundary line intended in the Second Article of the Treaty of 1783, without first obtaining the consent of the State or States interested in maintaining the American claim. An official invitation was therefore addressed to the Governors of the

States of Maine and Massachussets, by Mr. Webster, the Federal Secretary of State, dated April 11, 1842, in which he urges upon them “the propriety of their co-operation, to a certain extent, and in a certain form, in an endeavour to terminate a controversy already of so long duration.” And adds:—

“The President proposes, then, that the Government of Maine and Massachussets should severally appoint a Commissioner or Commissioners, empowered to confer with the authorities of this Government upon a conventional line, or line by agreement, with its terms, conditions, considerations, and equivalents, with an understanding that no such line will be agreed upon *without the consent of such Commissioners.*”

Upon this invitation the legislative authorities of these States delegated Commissioners to attend at Washington during the progress of the negotiation, with power to give the assent of their respective States to a compromise of the Boundary question, it being provided, however, by the legislative authorities of Maine, that no conventional line was to be agreed upon “without the *unanimous* assent of their four Commissioners.”

Amongst the Maine Commissioners was Mr. William P. Preble, the gentleman who,

as has been before stated, protested on the 12th of January, 1831, against the award of the King of the Netherlands, and who was understood upon this occasion to represent that party in the State of Maine which had most strenuously insisted upon its extreme claim. When these gentlemen were all assembled at Washington, the extraordinary spectacle presented itself of the supreme power in the Government being exposed to be controlled, in one of its most important functions, by four Commissioners from the State of Maine, and three from the State of Massachusetts; a circumstance which, looking to the unanimity required on the part of those of Maine, and to the known extreme opinions entertained by Mr. Preble, led many persons to entertain apprehensions for the success of the mission, for the dissenting voice of that gentleman was alone sufficient to frustrate this most important negotiation. After contending, however, to the latest moment for terms that the instructions of the British Plenipotentiary did not warrant him to admit, these Commissioners finally abandoned that extreme claim which they had never at any time ceased to urge their just title to, and assented to the compromise. By it Great Britain is left for ever in the unquestioned possession of those indispensable

objects for which her negotiators had contended at the Treaty of Ghent in 1814, upon the condition of releasing her claim to a portion of the disputed territory contiguous to the United States, not necessary to the welfare of the British Colonies. This it is now proposed to place beyond all reasonable doubt, by a brief analysis of the compromise, and a reference to the Map.

The territory in dispute was comprehended in the area on the map which is tinted with a pink colour, and consisted, according to a careful estimate made by the British astronomer, Dr. Tiarks, in 1818, of 10,705 square miles, or 6,851,200 acres. The River St. John runs from its source nearly through the centre of this area, until it intersects that north line from a source of the River St. Croix, which forms the eastern boundary of the United States. The claim of that Government extended to the northern extremity of the area, and not only pretended to cut off the established military and post routes, *vid* Madawasca River, Temiscouata Lake, and the Grand Portage, from Halifax and New Brunswick to Quebec, but would have given to the United States a right to establish military positions along the range of highlands extending, but with considerable interruptions, from the Metis

River to the sources of the Du Sud, opposite to Quebec; a distance of about 180 miles, and upon a line almost at every point within 25 miles of the River St. Lawrence.

By the award of the King of the Netherlands, the St. John, from the point where it is intersected by the north line, was made the boundary between the two countries along its course as far as the St. Francis, and as far as this related to the preservation of our communications, it was to that extent satisfactory; but in another point of view, independent of the extravagant cession of territory involved by it, the award was disadvantageous, for it directed the boundary to proceed up the St. Francis to its source in the Highlands, and thence by the Highlands to the sources of the Du Sud, surrendering to the United States, for a distance of sixty miles, the right to overlook the valley of the St. Lawrence from the military positions there. This was the most objectionable part of the award, and was considered so unsatisfactory by our military authorities, that probably the British Government of that day would not have acceded to it, notwithstanding their anxiety to terminate the dispute, but for the pledge that had been given by Great Britain to receive the decision as "final and conclusive."

By looking at those red lines on the map which represent the boundary established by the Treaty of Washington, the reader will perceive that every essential object for which Great Britain had heretofore contended, and every advantage indispensable to the welfare and security of her colonies, have been at length secured to her; that that which was so objectionable in the award of the King of the Netherlands has been entirely removed, and that, in fact, the American Government, instead of persevering and succeeding in that extreme claim to which it appeared to have been pledged in legislative proceedings, and which was justly felt to be both offensive and dangerous to Great Britain, has entirely withdrawn it, and has resigned every pretension to the country lying north of the red line, including all our established communications, and every military position along the whole line of what was claimed as the frontier, which now in no instance approaches nearer than sixty miles to Quebec. In bringing the dispute to this very satisfactory termination, the negotiators appear to have prudently abstained, as far as it was possible, from entering into any discussion of their extreme claims; a friendly compromise and not controversy was their object, and they accordingly divided the territory into two

moieties as near as it could be done, assigning to each country that portion contiguous to, and most necessary to its immediate interests, as will now be shown.

The estimate made by Dr. Tiarks of the square contents of the territory, which has been before alluded to, was 6,851,200 acres. The territory assigned to Great Britain by the award of the King of the Netherlands does not appear to have been computed by that gentleman, but in a confidential letter of Mr. Webster to the Commissioners of Maine and Massachussets, dated Washington, July 12th, 1842, the amount of acres is there stated as follows:—

“By the award of the King of the Netherlands there was assigned to England, 4,119 square miles—2,636,160 acres.”

But the estimate made by Dr. Tiarks was, as it is well known, a very large one, for he drew the southern limit of the disputed territory by an irregular west line running round the heads of streams flowing in opposite directions, from Mars Hill to the sources of the Chaudière, a line that was south of the true boundary claimed by Great Britain from the Roostuc to the Chaudière, which only gives for the whole area the square contents of 6,750,000 acres, a moiety of which is 3,375,000. Now

the actual distribution of this territory by the Treaty of Washington is in the proportion of

The United States	3,413,000
Great Britain	3,337,000
The difference in favour of the United States only being }	76,000 acres ;

of which twice or thrice that amount in the part ceded to the United States, consists of lakes and morasses. By the compromise, then, which has been effected, it is clear that, besides the acknowledgment of our title to all the military positions upon the frontier, we retain about 700,000 acres more than were assigned to Great Britain by the award of the King of the Netherlands; these important facts which are admitted in the United States, are the occasion of some political excitement there at this time. The assertion, therefore, which has been made at home, that we have only retained one-third of the territory, as well as that hereafter to be noticed of M. Lemoinne, that we have surrendered to the United States "*three-fourths* of the territory in dispute," is quite unfounded, and the mistake first noted must have originated in an estimate drawn from the award of the King of the Netherlands, which, as has been shown, is nearly in that proportion.

It is superfluous to add anything to this branch of the subject, respecting which enough has been said for the satisfaction of those who prefer an honourable and friendly arrangement of our misunderstandings with Foreign Powers, to the sad alternatives which present themselves.

But objections have been raised to that part of the Treaty which relates to the privilege given to the citizens of Maine to float their produce down the River St. John, and these will now be considered.

In relation to this concession the following are the terms of the Treaty respecting that part of the River St. John which is declared to be the line of boundary.

“The navigation of the River shall be free
 “and open to both parties, and shall in no way
 “be obstructed by either, that all produce of
 “the forest, in logs, lumber, timber, boards,
 “staves, or shingles, or of agriculture not being
 “manufactured, grown on any of those parts
 “of the State of Maine watered by the River
 “St. John, or by its tributaries, *of which fact*
 “*reasonable evidence* shall, if required, be pro-
 “duced, shall have free access into and through
 “the said river and its tributaries, *having their*
 “*source in the State of Maine*, to and from the
 “sea-port at the mouth of the said River St.
 “John, and to and round the Falls of the said

“ river, either by boats, rafts, or other conveyance: that when within the province of New Brunswick, the said produce shall be dealt with as if it were the produce of the said province: that in like manner, the inhabitants of the territory of the Upper St. John determined by this Treaty to belong to Her Britannic Majesty, shall have free access to and through the river for their produce in those parts where the said river runs wholly through the State of Maine; provided always, that this agreement shall give no right to either party to interfere with any regulations not inconsistent with the terms of this Treaty, which the Governments, respectively, of Maine or of New Brunswick, may make respecting the navigation of the said river, where both banks thereof shall belong to the same party.”

Now, to form a just estimate of the value of this concession to the Americans, and of the degree of injury British interests can by any possibility receive from it, a few details explanatory of the nature of the country will be necessary.

The River St. John, from the cataract called the Great Falls to its mouth, a distance of about 200 miles, is a broad navigable stream of which both the banks are exclusively possessed

by Great Britain. From these Falls upwards, and westwardly to the source of the river, it is only navigable for flat-bottomed boats and canoes, and during that portion of the year when drought prevails and the river is low, even unloaded canoes can with difficulty be propelled along in various parts of it. That part of the territory which has been ceded to the United States is watered by those shallow parts of the river, and by some of its tributaries, of which the principal ones are the Roostuc and the Alleguash. By referring to the map it will be seen that the Roostuc holds a north-easterly course from its sources until it empties itself into the St. John, a few miles south of the Great Falls; the navigation, however, of the Roostuc ceasing for boats and canoes of every kind, a few miles before it reaches the St. John, on account of a steep cataract and rapids. The Alleguash, which has its sources a little to the west of the sources of the Roostuc, holds a north course through a country of lakes and rapids difficult of navigation, until it empties itself into the St. John. The exportable products, therefore, of this territory, where it is adjacent to the Roostuc, would naturally pass along that stream to the St. John, whilst those of the parts adjacent to the Alleguash, would pass into the waters of the Penobscot, with

which a communication has already been made by the people of Maine. There are also some inferior tributaries, such as the Fish River, emptying into the St. John west of Madawasca, and the Meduxnakeag, which rises not far from the northern sources of the St. Croix, and empties into the St. John at Woodstock.

The Treaty provides that where the River St. John is declared to be the boundary between the two countries; to wit, from the point where the north line intersects the St. John to the St. Francis, the river shall be free and open to both parties; and that where both banks of the river belong to one Government,—as in the British territory upon the St. John, from its mouth to its intersection by the north line, and in the American territory from the mouth of the St. Francis to the point where the boundary line from Lake Pohenagamook again joins the waters of the St. John—the inhabitants under each Government shall have free access to and through the river for certain kinds of produce, subject to such provincial regulations of the respective governments as may relate to the navigation of those parts of the river, both banks of which belong to the same Government, and which are not inconsistent with the terms of the Treaty. It is, moreover, especially provided that the produce belonging to the

citizens of Maine, thus to be admitted upon the British waters of the St. John, is to be accompanied, if required, by reasonable evidence that it was grown upon some part of the territory now conceded to the United States, which is watered by the St. John, or by its tributaries; so that a complete check is provided, not only against any disorders with which the transit of this produce might be accompanied through British territory, but also against any fraudulent introduction into it of produce raised without the limits prescribed by the Treaty. The produce thus to be admitted is limited to the raw material of the forest, and the unmanufactured articles of agriculture, so that flour in barrels, the only form in which manufactured wheat could be introduced, is altogether excluded. And as to wheat in bulk—the only form in which under the Treaty it can be introduced—finding its way through that channel to the port of St. John's, and reaching England, as some have apprehended, without paying a foreign duty, it would be attended with so much expense and waste before it reached the St. John, on account of the difficulties of the navigation, that the cost of it would far exceed the price it could be sold for. But there is a more conclusive reason to be given against the supposition that this Treaty has opened such a

door for the evasion of our own laws. Wheat is not, and will never be grown in this conceded territory. The patches of land applicable to its culture are very rare, and not more than adequate to the consumption of the scattered population that can ever find subsistence there, if even the climate were favourable to its growth and harvest; but in a country where the rigour of winter does not permit the ground to be tilled until the month of May, and where the frosts in the early part of September compel the farmer to trust only to such scanty crops of rye and oats as he can snatch from the ground, often in an immature state, the whole time of the settler is consumed in securing these coarse grains together with his potatoes, in sufficient quantities to provide his family for a tedious winter of seven months, during which his agricultural labours are suspended, and he is driven to the forest to add to his scanty means, by cutting a few logs for the speculator who is to pay him for them in the month of May, when the waters are high enough to float them down the stream. In a severe climate of this kind, and with such a soil, it may safely be asserted that the inhabitants will for ever be condemned to precarious, scanty, and limited crops; and that, far from having an agricultural surplus to export, all their industry will be

required to pay for that which they are unable to produce themselves, and which must be drawn from a distance. The wheat flour, therefore, to be hereafter consumed on that territory will have to be imported, as it is now done, from a wheat-producing country; and if it is imported by way of the River St. John it must pay the same duty at a British custom-house that it has always been liable to before the Treaty of Washington was made.

This being the case, the only article which the Treaty practically opens a free transit to is the raw material of the forest, in those various forms enumerated in the Treaty, being those in which it is usually sent to market. And here it will not be difficult to show that the Treaty introduces nothing that is new, and changes nothing in the accustomed channel of business connected with the supply of timber. In fact, all that the Treaty does is to give some regularity to a branch of industry which stood in great need of it, and to save that small portion of the forest timber which still remains from the indiscriminate waste and destruction which invariably accompanied the cutting of it down, when no one had a settled title to the land upon which it grew. Whilst the country was in dispute the forests were a prey to speculators living under both Governments, who sent par-

ties of coarse woodmen to pass the winters there, and to cull the finest timber wherever it was to be found. The logs being marked were committed to the stream as soon as the waters of the Roostuc were high enough to float them down, and were not unfrequently seized by the authorities appointed to prevent waste, and were either left to rot on the ground, or were sold for what they would bring. Latterly the loss sustained by such operations suggested to these speculators a method of avoiding it to a certain extent. A British subject residing in New Brunswick would form a partnership in these transactions with a citizen of Maine, and so the property was proved to be British or American, as the case might require. The Treaty has now put a stop to this destructive and unprofitable way of carrying on the business; the boundary being settled, every tree has an owner, public or private, and will be taken care of, and conducted either in the form of logs, or as shingles, or staves, &c. &c., *to the best market*. There it is sure to go, and the best market will always be the flourishing city of St. John, at the mouth of the river, which is the place provided by the Treaty for it to go to*.

* It is very well known that her Majesty's subjects in New Brunswick are fully aware of the advantages they are to derive from this part of the Treaty, and that the friendly arrangement which has been made is, on account of its tendency to promote the regular business of the province, extremely popular there.

The effect, therefore, of that provision of the Treaty which permits the citizens of Maine to carry their forest stuffs to St. John's, will be to introduce a more peaceful and less wasteful mode of continuing a branch of trade which will be more profitable to her Majesty's subjects in New Brunswick than to anybody else, but which will not be of very great importance hereafter, for the reason before given—that very little timber of the first quality now remains standing in any part of the disputed territory.

It is manifest from this statement that any surplus products of the territory now ceded to Maine, not consisting of rude logs, must—if ever there should be any—either be sent to the St. John by the waters of the Roostuc, or to an American port by way of the Penobscot; for nothing can bear the expense of being sent north to where the St. John is the boundary between the two countries. And in respect to the restrictive clause concerning provincial regulations mentioned in the Third Article of the Treaty, it is to be observed that although the Article provides that the produce grown in the part ceded to Maine is privileged to pass “to and round the Falls of the said river (St. John's) either by boats, rafts, or other conveyance,” yet no similar provision is made in

the Treaty in favour of any produce passing round the Falls of the Roostuc, which are also on the British side of the Boundary, and are distant five miles from the St. John. On reaching those Falls the further progress of all produce, except logs, must stop, until permitted to proceed through the portage-road (which is entirely in British territory) by authority of the Provincial Government of New Brunswick ; so that in every respect the transit of American produce down the River St. John is placed by the Treaty under proper restrictions.

A more plausible objection, which has been made to the boundary now established, is that which rests upon the fact of a few families of French origin, connected with the Madawasca settlement, being settled on the right bank of the St. John, between Fish river and the north line. It has been represented as a hard measure to have separated these people, whose religion, manners, and language are so widely different from those of the people of the United States, from their own community, and from their own pastors, and to turn them over to a Republican Government, at a great distance from all their connections, and to which they could not be supposed to feel any attachment. But this objection is met by stating that those families are very few in number, that they voluntarily

separated from their community on the left bank of the river, without any authority from the British Government to occupy the lands upon which they had settled, and that every consideration has been had for them in the negotiation of the Treaty. Even the Commissioners on the part of the State of Maine, whom Mr. Webster had invited to Washington, had disclaimed, as we find in their letter to him of June 29, 1842, any intention of offering any violence either to the interests or the opinions of these families.

These gentlemen say:—

“ Before closing this communication, the undersigned feel it their duty to say something by way of explanation of their views, in regard to the French settlers at Madawasca. In any Treaty which may be made with Great Britain affecting these people, the grants which have been made to them by New Brunswick, may and ought to be confirmed to them in fee simple, with such provisions in regard to the possessory rights acquired by other actual settlers there as may be just and equitable, and also the right may be reserved to the settlers on both banks of the river to elect, within some reasonable period, and determine of which Government the individuals, signifying their election, will remain or

“ become citizens or subjects. If, then, they
 “ should have any preference, they will have it
 “ in their power, on mature consideration and
 “ reflection, to decide for themselves, and act
 “ accordingly.”

All, therefore, who prefer to abandon their
 rude settlements on the other side, and to live
 amongst their own countrymen under British
 jurisdiction will, no doubt, have a liberal oppor-
 tunity of doing so; and if any of them deter-
 mine to give their allegiance to the United
 States, it will be their voluntary act, and not
 because that protection from Great Britain has
 been denied to them, under which their fellow-
 countrymen have always so happily and loyally
 existed.

The only part of the Treaty which relates to
 the boundary contiguous to Canada which has
 not now been adverted to, is that portion
 extending from the heads of the Connecticut
 to the river St. Lawrence, which, by the Treaty
 of 1783, was directed to be upon the forty-fifth
 parallel of north latitude, an ancient boundary
 between Canada and the adjacent Royal Pro-
 vinces. This line was surveyed in 1772, and
 settlements were made upon it. Previous to the
 submission of the statements of the two countries
 to the King of the Netherlands, this old line was
 reported by the surveyors to be erroneous, and

to be distant, upon an average, less than half a mile to the north of the true parallel. The King of the Netherlands, however, considering that the Treaty of Ghent made it imperative upon the parties to cause a new survey to be made of that line, in declaring that that provision of the Treaty must be executed, decided that in any case the United States should preserve the site upon which a fortification at Rouse's Point had been erected, with a circle round it of one Kilometre radius. By the Treaty of Washington it has been determined to confirm the parties in their possessions according to the old line of 1772, and therefore it has been made the boundary between the two countries. Rouse's Point consequently remains with the United States, as it would have done if the award of the King of the Netherlands had been accepted by both Governments. The work, however, which was erected upon this low piece of land soon after the revolt broke out in the British provinces, in 1776, was long ago demolished, and will probably be never re-constructed, as the place is considered to have no advantages as a military position.

The 2nd Article of the Treaty provides for that portion of the general boundary left unsettled by the Commissioners under the 6th Article of the Treaty of Ghent. The extreme claim

of the United States when their Commission closed in 1828, would have carried the boundary far to the north-east of that now established by the Treaty of Washington, which there can be no doubt is the line intended by the Treaty of 1783. The difference which the line now established constitutes in favour of Great Britain, is about 5,847 square miles, or 3,742,080 acres. Nearly the whole of it, however, is a barren and rocky country, unfavourable to agriculture. On the other hand, a particular channel in the water communication from Lake Huron to Lake Superior has been agreed upon, in consequence of which a small island in dispute, called St. George's, or Sugar Island, falls to the United States. By this Article the whole of the boundary from Lake Huron to the eastern flank of the Rocky Mountains, is now permanently agreed upon.

It might have been advisable to have left these explanations of the real nature of the boundary portion of this Treaty, at this point, as altogether sufficient for persons of candour to form their judgment upon; and the author would probably have been contented to do so without further remark, but for those misrepresentations before alluded to * in the *Revue des deux Mondes*, which evidently aim to represent

* Vide page 5.

the whole Treaty as derogatory to Great Britain, and which have been extensively circulated through the continent of Europe. The writer of the article referred to—and which is in many respects a very able one—has chosen to consider some remarks which have appeared in one or two of our newspapers as representing public opinion in England, and says that, upon mature consideration of the Treaty of Washington, the general feeling here is divided between satisfaction at having settled one of our most embarrassing political questions, and regret at having paid so very dear for the friendship of America. Now this writer has either very much misunderstood the provisions of the Treaty, or, from some motive, has represented several of them in a very different sense to their obvious and true one. Whatever the reason may have been, it is very clear that his assertions that the honour and interests of this country have been overlooked in the late negotiations, required that the facts should be misrepresented, before the assertions could be made even plausible, and this is what has been done. Of these misrepresentations a few may be cited.

After stating that the British Government at length withdrew its consent to the award of the King of the Netherlands, he proceeds to say:—

“ Lord Palmerston proposa encore que la
 “ rivière Saint-Jean fût prise pour ligne limi-
 “ trophe, ce qui a été en grande partie adopté
 “ dans le dernier Traité. A cette époque, les
 “ Etats Unis refusèrent cette proposition*.”

This statement unequivocally betrays the loose manner in which so grave a subject has been treated. It is true that Mr. Forsyth, the American Secretary of State, did, on the 29th February, 1836, in a note to Charles Bankhead, Esq., propose to terminate the controversy by making the St. John from “ its source to its “ mouth” the boundary between the two countries; but as this proposition involved the surrender to the United States of a territory *which had never been in dispute*, containing near 3,000,000 acres of land, as well as the flourishing town of St. Andrews, and various settlements of British subjects, Mr. Bankhead, in his answer, says, he forbears to make any allusion to such a proposition, as the best proof he can give “ of “ its utter inadmissibility.”

This was the proposition, it will be remembered, which had been rejected by the British Government during the negotiations at Paris in

* Lord Palmerston proposed after this that the river St. John should be agreed upon as the boundary, and which has been in a great measure adopted in the late Treaty. At this period the United States refused this proposition.

1782, and since that period it had never been entertained for a moment by any administration in Great Britain.

But although Viscount Palmerston never made so extravagant a proposition, or any one that resembled it, it is true that that statesman, in his despatch to Mr. Bankhead, dated October 30, 1835, did propose, by way of compromise, a line which is substantially the same for all useful purposes with that which has now been settled by the Treaty of Washington, with the sole exception that the St. John was to be the boundary from the point where the North line intersects that river to its southernmost source. The passage in the despatch is as follows:—

“ His Majesty’s Government would therefore propose to that of the United States, to adjust the present difference, *by dividing equally between Great Britain and the United States the territory in dispute*; allotting to each party that portion which, from contiguity or other circumstances, would be most desirable as a possession for each.

“ The general outline of such a division would be, that the boundary between the two states should be drawn as required by the Treaty, due north from the head of the St. Croix River, and should be carried straight on till it intersected the St. John: from

“ thence it should run up the St. John, to the
 “ southernmost source of that river ; and from
 “ that point it should be drawn to the head of
 “ the Connecticut River, in such a manner as
 “ to make the northern and southern allot-
 “ ments of the divided territory *as nearly as*
 “ *possible equal to each other in extent*; the
 “ northern allotment to remain with Great
 “ Britain, the southern allotment to belong to
 “ the United States.

“ You are therefore instructed to present to
 “ Mr. Forsyth a note, of which I enclose you
 “ a copy, for the purpose of enabling him to
 “ bring distinctly before the Government of
 “ the United States the propositions now made
 “ by His Majesty’s Government.”

Now, even if Mr. Lemoinne had supposed
 Mr. Forsyth’s proposition to have proceeded
 from Lord Palmerston, it could not be carried
 to account of the Treaty of Washington, and
 the mistake, or whatever it may be considered,
 was at best but the visionary basis to an in-
 ference, that the British Government has
 always been prone to make unnecessary sacri-
 fices to the United States. But, in another part
 of his paper we find him positively asserting
 that Lord Ashburton proposed to the Ame-
 rican Government to agree upon the very line
 which Mr. Bankhead had at once pronounced

“inadmissible,” and which had never been proposed or alluded to either directly or indirectly even by the Maine Commissioners. His words are:—

“Quels étaient les termes proposés par le Plénipotentiaire Anglais? Ils pouvaient se resumer ainsi: il offrait de prendre pour ligne de demarcation la Rivière Saint Jean, *“dans tout son cours, sauf une seule exception*.”*

If this statement, then, of Mr. Lemoine, which goes the whole length of asserting that the British Government was prepared to make the St. John, from its source to its mouth, the boundary between the two countries, is to be defended as a mistake on his part, arising from inattention to the conditions of the Treaty, why, it may be fairly asked, did he, who admits —“nous avons sous les yeux cette correspondance†,” think himself competent to expound this Treaty to all Europe, and at liberty to draw from it conclusions of a most offensive character to Great Britain, which he will be utterly unable to justify? As to the exception

* What were the terms proposed by the British Plenipotentiary? They may be thus shortly stated: he offered to take as the line of demarcation the River St. John, *in its entire course*, with one sole exception.

† We have this correspondence before us.

spoken of in the passage quoted from Mr. Lemoinne, it has nothing to do with the River St. John, from its mouth to the point where it is intersected by the north line, during which distance it flows entirely through British territory ; but relates to that part of the bank of the St. John lying between the point where it is intersected by the north line and the mouth of Fish River, where, as has been before stated, a few families of French peasants had voluntarily settled themselves from the opposite parish of Madawasca. Mr. Lemoinne, who had before him the letter of the Maine Commissioners to Mr. Webster, of the 29th June, 1842, disclaiming any intention of doing violence to the interests or opinions of these people, finds it convenient to represent the hypothetical separation of these people, amongst whom no dissatisfaction exists, in the following terms :—

“ Prendre la rivière pour limite dans tout son cours, *c'était couper la colonie en deux, diviser les intérêts, séparer les familles, rompre enfin une communauté paisible et heureuse**.”

But this fanciful picture of a wrong that was never committed, and of distress that has

* To take the river as a boundary in its entire course, was to cut the colony into two parts, to divide its interests, to separate its families—in short, to break up a peaceful and happy community.

never been felt, must still be considered subordinate to the extravagant statements contained in the following passage, where the writer appears as little disposed to flatter the American Commissioners of Maine, as to do justice to the British negotiator:—

“Cependant les Etats-Unis, tout en faisant
 “fide ce qu'on leur accordait, prenaient tou-
 “jours, et, l'appétit leur venant en mangeant,
 “plus on leur offrait, plus ils demandaient. Lord
 “Ashburton avait déjà cédé les *trois quarts* du
 “territoire contesté, il avait cédé *la moitié* de
 “‘l'heureuse et paisible colonie de Madawasca,’
 “il avait cédé la libre navigation du Saint Jean
 “à travers le Nouveau-Brunswick, et enfin de
 “compte, au lieu de lui faire des remerciemens,
 “les Etats-Unis lui demandaient encore de
 “l'argent. *Il avait offert de payer aux états*
 “*du Maine et de Massachusetts une indemnité*
 “*de 300,000 dollars*: les deux états n'avaient
 “garde de refuser; mais il faut les voir faire
 “la petite bouche avant d'avaler le morceau.
 “Ce sont eux qui ont l'air de faire une grace au
 “Gouvernement Anglais en acceptant son
 “argent. ‘L'état du Maine,’ disent les Com-
 “missaires Américains, ‘a toujours eu une
 “‘répugnance insurmontable à céder aucune
 “‘portion du territoire qui lui est contesté pour
 “‘une simple indemnité pécuniaire. Il ne vient

“ ‘point ici pour marchander des acres dans un
 “ ‘esprit de trafic.’ Ce que disant, l’état du
 “ Maine prend les 300,000 dollars, et les partage
 “ avec son confrère de Massachusetts*.”

It is unnecessary further to expose these exaggerated assertions of our having surrendered to the United States *three-fourths* of the territory in dispute, together with a *moiety* of the colony of Madawasca; but in regard to the assertion that Lord Ashburton had offered to pay to the States of Maine and Massachu-

* Meantime the United States, affecting to be indifferent to what was offered to them, nevertheless always accepted it, and their appetite increasing with their food, the more they were offered, the more they exacted. Lord Ashburton had already yielded *three-fourths* of the disputed territory; he had yielded a *moiety* of the happy and peaceful colony of Madawasca; he had yielded the free navigation of the St. John through New Brunswick; and at the closing of the account, instead of returning him their thanks, the United States asked him for money into the bargain. *He had offered to pay to the States of Maine and Massachusetts an indemnity of 300,000 dollars:* the two States took care not to refuse them, affecting, however, an admirable reluctance before they swallowed the morsel. It is they who seem to confer a favour upon the English Government in accepting its money. “The State of Maine,” say the American Commissioners, “has always had an insurmountable repugnance to yield any portion of the territory that is disputed with them for a simple pecuniary indemnity. It is not here for the purpose of bargaining about its acres in a spirit of traffic.” Having said this, the State of Maine takes the 300,000 dollars, and shares them with its fellow State, Massachusetts.

setts an indemnity of 300,000 dollars, it needs only to say that this is a pure invention, and proves that Mr. Lemoinne has either wilfully made this statement, or has never consulted the Treaty at all; for this particular matter could not be easily misunderstood, it being only treated of in the fifth article of the Treaty, where the United States' Government engage—

“To pay and satisfy said States, respectively,
 “for all claims for expenses incurred by them
 “in protecting the said heretofore disputed
 “territory, and making a survey thereof in
 “1838: the Government of the United States
 “agreeing with the States of Maine and Massachusetts to pay them the further sum of
 “three hundred thousand dollars, in equal
 “moieties, on account of their assent to the line
 “of boundary described in this Treaty, and in
 “consideration of the equivalent received there-
 “for, from the Government of Her Britannic
 “Majesty.”

If Mr. Lemoinne had read the article, he must have seen that the payment of these 300,000 dollars was a transaction between the Federal Government and these two States; and this was made still more notorious by Lord Ashburton's letter to Mr. Webster, dated 9th August, 1842, in which he expressly protests

against Her Majesty's Government being in any manner responsible "for these engagements, of the precise nature and objects of which I am uninformed, nor have I considered it necessary to make inquiry concerning them."

To this letter of protest Mr. Webster, in a note of the same date, says :—

"What you say in regard to that subject is quite correct: it purports to contain no stipulation on the part of Great Britain, nor is any responsibility supposed to be incurred by it, on the part of your Government."

Nevertheless Mr. Lemoinne, who says "nous avons sous les yeux cette correspondance," does not hesitate to assert that it was Lord Ashburton who had offered to pay the money.

In his remarks upon the eighth article of the Treaty, Mr. Lemoinne observes :—

"Cet article du Traité n'a, comme on le voit, aucune importance, n'établit en aucune façon le droit de visite réciproque*."

Although it is true that the right of mutual visitation is not established by it, a circumstance from which others as well as himself have sought to insinuate very unfounded con-

* This article of the Treaty is, as we see, of no importance, and establishes in no respect the right of reciprocal visit.

clusions, yet it is not equally true that the article is of no importance. The friends of humanity at least find reason to judge otherwise of it. It is matter of sufficient notoriety that previous to the Treaty of Washington, Great Britain was most earnestly engaged in endeavouring to carry into effect the suppression of that traffic in human beings which all Christian powers had concurred in pronouncing detestable, but which, to a fearful extent, was still successfully carried on, in consequence of the persons fraudulently engaged in it hoisting a flag which did not belong to them, to secure them from being overhauled by British cruisers. Now, if Great Britain were to permit vessels thus atrociously and illegally employed to sail on with impunity, if she were to continue to hold the language of freedom to the persecuted Africans, and yet permit them constantly to be carried by thousands into unmitigated and hopeless slavery, what would it be but to connive at, and indirectly participate in, these criminal enterprises. Those, therefore, who would pretend to establish as a general principle, that vessels under strong suspicion of being slavers, are not to be visited for the mere purpose of ascertaining whether they do or not belong to the country whose flag they hoist, say in effect that

the traffic in slaves is not to be interrupted, and therefore that it shall be pursued with impunity ; for nothing is more clear than that if any one flag is to be exempted from visitation, that particular flag will always be hoisted upon occasions when the vessel cannot avoid being overhauled : the American flag would always be hoisted when the pursuer was a British cruiser, and *vice versa*. But the parties interested, from various motives, in cramping and impeding the execution of the humane purpose of our country, have constantly endeavoured to excite a spurious alarm in the sensitive feelings of their fellow-countrymen, by confounding a friendly reciprocal visitation in time of peace, with the belligerent right of search. Now this right of visitation, the exercise of which is so evidently necessary for the suppression of the trade in human beings, is an act altogether distinct, both in its nature and avowed purpose, from that international right of search which is incident to the justifiable capture of enemies' property on board of neutral vessels ; yet, nevertheless, is so subject to misrepresentation, that in countries where an abhorrence of slavery is not inherent, the most jealous national feelings are easily aroused by it, even in the bosoms of those who, in calmer moments, would approve of the high motive which sanctions it. This is

the difficulty which has frequently made the justifiable conduct of British cruisers obnoxious to the Americans, and has not only embarrassed the relations between the two Governments, but clogged the exertions of Great Britain to give full effect to the extinction of the slave trade on the coast of Africa.

Of late the subject has excited a great deal of attention, the American Government having decidedly objected to a friendly visitation of their flag, with or without the consent of their commanders, or under any circumstances whatsoever: so that if a vessel under every accumulated suspicion of being engaged in the slave trade, were to be met on the high seas carrying the American flag, and upon visitation by a British cruiser, for the purpose of ascertaining whether the flag was run up fraudulently or not, was found to be a *bond fide* American vessel, with a cargo of slaves on board, the act of visitation was to be deemed "a violation of national rights and sovereignty, and the incontestible principles of national law*."

But the letter which the Earl of Aberdeen addressed to Mr. Everett, December 20, 1841, is well known to contain an unanswerable refutation of a mode of reasoning which, if it were

* Mr. Stevenson's Letter to the Earl of Aberdeen, Oct. 21, 1841.

admitted, would give effectual protection to vessels employed in the slave-trade, as well as to those pursuing a career of higher infamy. That letter is indeed such a perfect exposition of the desire of Great Britain to regulate her just protection of the rights of humanity, by a most careful respect for the interests and honour of other powers, that a few of the most material extracts from it will now be inserted.

“ The Undersigned again renounces, as he
 “ has already done, in the most explicit terms;
 “ any right on the part of the British Govern-
 “ ment to search American vessels in time of
 “ peace. The right of search, except when
 “ specially conceded by Treaty, is a purely
 “ belligerent right, and can have no existence
 “ on the high seas during peace.

“ The Undersigned apprehends, however,
 “ that the right of search is not confined to
 “ the verification of the nationality of the vessel,
 “ but also extends to the object of the voyage,
 “ and the nature of the cargo. The sole pur-
 “ pose of the British cruizers is to ascertain
 “ whether the vessels they meet with are really
 “ American or not. The right asserted has, in
 “ truth, no resemblance to the right of search,
 “ either in principle or in practice. It is simply
 “ a right to satisfy the party who has a legiti-
 “ mate interest in knowing the truth, that the

“ vessel actually is what her colours announce.
 “ This right we concede as freely as we exercise.
 “ The British cruizers are not instructed to
 “ detain American vessels under any circum-
 “ stances whatever; on the contrary, they are
 “ ordered to abstain from all interference with
 “ them, be they slavers or otherwise. But where
 “ reasonable suspicion exists that the American
 “ flag has been abused, for the purpose of
 “ covering the vessel of another nation, it would
 “ appear scarcely credible, had it not been made
 “ manifest by the repeated protestations of their
 “ representative, that the Government of the
 “ United States, which have stigmatized and
 “ abolished the trade, should object to the
 “ adoption of such means as are indispensably
 “ necessary for ascertaining the truth.

“ The Undersigned had contended, in his
 “ former note, that the legitimate inference
 “ from the arguments of Mr. Stevenson would
 “ practically extend even to the sanction of
 “ piracy*, when the persons engaged in it should

* This passage has, within a very brief period, received an awful commentary in the unparalleled transactions which, according to the American newspapers, took place on the 1st of December, 1842, on board the United States' national brig, *Somers*, on her return home from the Coast of Africa. This vessel, it is alleged, had, before leaving New York, shipped some men who had formerly served on board of slavers, and that a youth, only aged 19, who was a midship-

“ think fit to shelter themselves under the flag
 “ of the United States. Mr. Stevenson observes
 “ that this is a misapprehension on the part of
 “ the Undersigned ; and he declares that, in
 “ denying the right of interfering with vessels
 “ under the American flag, he intended to limit
 “ his objection to vessels *bond fide* American,
 “ and not to those belonging to nations who
 “ might fraudulently have assumed the flag of
 “ the United States. But it appears to the
 “ Undersigned that his former statement is by
 “ no means satisfactorily controverted by the

man on board, had leagued himself with some of these desperate men, and concerted with them to rise upon the captain and officers in the night, and murder them, together with those of the crew who should refuse to join the mutineers. The brig was then to be sailed as a pirate, and to cruize on the packet line between England and America, plunder everything they overpowered, murder the passengers and crew, and sink the vessels. Through the imprudence of the midshipman, this villany came to the captain's knowledge, who, having collected every proof the case admitted of, arrested the ring-leaders, and put them in double irons. But uncertain how far the mutiny extended amongst his men, and perceiving symptoms of a break-out, and believing it was questionable whether he could maintain the command of the brig until he had conducted his prisoners to the United States, he consulted his officers, and they, entertaining the same opinion that he did of the extreme danger to which their lives were exposed, as well as of that terrible one, of the brig being converted into a pirate, unanimously concurred with him in the necessity of putting the midshipman, and two of the most desperate of his confederates, to immediate death. The decision

“ declaration of Mr. Stevenson’s. How is this
 “ *bona fides* to be proved? Must not Mr. Ste-
 “ venson either be prepared to maintain that
 “ the flag alone is sufficient evidence of the
 “ nationality of the vessel, which, in the face of
 “ his own repeated admissions, he cannot do; or
 “ must he not confess that the application of
 “ his arguments would really afford protection
 “ to every lawless and piratical enterprise?

“ The Undersigned had also expressed his
 “ belief that the practice was general, of ascer-
 “ taining, by visit, the real character of every
 “ vessel on the high seas against which there
 “ should exist reasonable ground of suspicion.
 “ Mr. Stevenson denies this; and he asks, What
 “ other nation than Great Britain had ever

was no sooner announced to them than it was executed, the whole three being hung at the fore yard-arm, after receiving the confession of two of them.

It is difficult to believe all that is reported of the intentions of the persons who were executed, but if this monstrous villany had been consummated, there would have been an American national brig, reputed to be the best sailer in their navy, on the high road of the commerce of the two nations carrying desolation of the worst kind wherever she went. Ofttimes, no doubt, before her atrocities had awakened suspicion of her true character, would she, if the jealous principle contended for had been admitted, have been enabled to defy our cruizers, and continue her career of blood, by the simple act of hoisting the American flag, finding immunity under the protection of a punctilio that can be intrinsically valuable only to freebooters.

“ asserted, or attempted to exercise, such a
 “ right? In answer to this question, the Under-
 “ signed can at once refer to the avowed and
 “ constant practice of the United States, whose
 “ cruizers, especially in the Gulf of Mexico, by
 “ the admission of their public journals, are
 “ notoriously in the habit of examining all sus-
 “ picious vessels, whether sailing under the
 “ English flag, or any other. In whose eyes
 “ are these vessels suspicious? Doubtless, in
 “ those of the commanders of the American
 “ cruizers. But, in truth, this right is quite as
 “ important to the United States as to Great
 “ Britain; nor is it easy to conceive how the
 “ maritime intercourse of mankind could safely
 “ be carried on without such a check.

“ It can scarcely be necessary to remind
 “ Mr. Everett that the right thus claimed by
 “ Great Britain is not exercised for any selfish
 “ purpose. It is asserted in the interest of
 “ humanity, and in mitigation of the sufferings
 “ of our fellow-men. The object has met with
 “ the concurrence of the whole civilized world,
 “ including the United States of America, and
 “ it ought to receive universal assistance and
 “ support.

* * * *

“ It is undoubtedly true, that this right
 “ may be abused, like every other which is dele-

“gated to many and different hands. It is
 “possible that it may be exercised wantonly
 “and vexatiously; and should this be the case,
 “it would not only call for remonstrance, but
 “would justify resentment. This, however, is
 “in the highest degree improbable. And if, in
 “spite of the utmost caution, an error should
 “be committed, and any American vessel should
 “suffer loss or injury, it would be followed by
 “prompt and ample reparation. The Under-
 “signed begs to repeat, that with American
 “vessels, whatever be their destination, British
 “cruizers have no pretension in any manner to
 “interfere. Such vessels must be permitted;
 “if engaged in it, to enjoy a monopoly of this
 “unhallowed trade; but the British Govern-
 “ment will never endure that the fraudulent
 “use of the American flag shall extend the
 “iniquity to other nations, by whom it is abhor-
 “red, and who have entered into solemn Trea-
 “ties with this country for its entire suppression.

“In order to prove to Mr. Everett the
 “anxiety of Her Majesty’s Government to pre-
 “vent all reasonable grounds of complaint, the
 “Undersigned believes that he cannot do better
 “than to communicate to him the substance of
 “those instructions under which the British
 “cruizers act in relation to American vessels
 “when employed on this service.

“ If, from the intelligence which the officer
 “ commanding Her Majesty’s cruizer may have
 “ received, or from the manœuvres of the ves-
 “ sel, or from other sufficient cause, he shall
 “ have reason to believe that, although bearing
 “ the American flag, the vessel does not belong
 “ to the United States, he is ordered, if the
 “ state of the wind and weather shall admit of
 “ it, to go ahead of the suspected vessel, after
 “ communicating his intention by hailing, and
 “ to drop a boat on board of her, to ascertain
 “ her nationality, without detaining her, if she
 “ shall prove to be really an American vessel.
 “ But should this mode of visiting the vessel be
 “ impracticable, he is to require her to be
 “ brought to for this purpose.

“ The officer who boards the vessel is merely
 “ to satisfy himself of her nationality by her
 “ papers, or other proofs ; and should she really
 “ be an American vessel, he will immediately
 “ quit her, offering, with the consent of her
 “ commander, to note on her papers the cause
 “ of suspecting her nationality, and the number
 “ of minutes she was detained (if detained at
 “ all) for the object in question. All the par-
 “ ticulars are to be immediately entered on the
 “ log-books of the cruizer, and a full statement
 “ of them is to be sent, by the first opportunity,
 “ direct to England.

“ These are the precautions taken by Her
 “ Majesty’s Government against the occurrence
 “ of abuse in the performance of this service ;
 “ and they are ready to adopt any others which
 “ they may think more effectual for the purpose,
 “ and which shall, at the same time, be consist-
 “ ent with the attainment of the main object in
 “ view.

“ Mr. Stevenson has said that he had no
 “ wish to exempt the fraudulent use of the
 “ American flag from detention; and this being
 “ the case, the Undersigned is unwilling to
 “ believe that a Government like that of the
 “ United States, professing the same object,
 “ and animated by the same motives as Great
 “ Britain, should seriously oppose themselves
 “ to every possible mode by which their own
 “ desire could be really accomplished.

“ The Undersigned avails, &c.

“ (Signed) **ABERDEEN.**”

At the period of Lord Ashburton’s mission,
 this letter had been some time in the posses-
 sion of the American Government, and as it
 appears to have been the last diplomatic
 communication from her Majesty’s Govern-
 ment on the subject of a reciprocal right of
 visitation, and conveys in very unequivocal
 language the course which the commanders of

British cruizers are instructed to pursue hereafter, the inference is plain that the American Government was not disposed to renew the discussion, and that the arguments of the Earl of Aberdeen were in so much left to be taken *pro confesso*.

It being thus manifest that it was the intention of the negotiators of the Treaty of Washington, that the 8th Article should be introduced into the Treaty, *solely* for the purpose of providing a further co-operation of the United States, towards the attainment of that most desirable object, the suppression of the trade in human beings, and that it was in no manner whatever intended to take Great Britain off the ground she occupied in the Earl of Aberdeen's letter, it has excited no little surprise with those who pay attention to American affairs, to find the President of the United States, in his late Annual Message to Congress asserting, that the 8th Article of the Treaty was framed in "close conformity" with his own particular views of the right of search, and with the conduct of the United States Minister, lately accredited at the Court of France, who had been notoriously engaged in an attempt to dissuade the French Government from ratifying the Treaty it had entered into with Great Britain, for a reciprocal right of visitation.

The impossibility of the negotiators having framed the Article with any view of the kind, is sufficiently obvious: they had the Earl of Aberdeen's letter before them, and no one will believe that Lord Ashburton would consent to depart from the letter or spirit of it in the smallest particular; neither is there any proof that he did so in the Correspondence or the Treaty. The point is too important to be left without further explanation, respecting which, it is not unlikely, that nobleman will set the public right.

The 8th Article of the Treaty, therefore, simply provides that each Government is to

“ Maintain in service, on the coast of Africa,
 “ a sufficient and adequate squadron, or naval
 “ force of vessels, of suitable numbers and
 “ description, to carry in all not less than
 “ eighty guns, to enforce separately and respec-
 “ tively the laws, rights, and obligations of each
 “ of the two countries for the suppression of
 “ the Slave Trade.”

By reference to the Article, it will be seen that the two Governments are also to instruct their commanding officers to act in concert for the suppression of the trade, and copies of their respective orders are to be communicated by each Government to the other.

When Mr. Lemoine calls this Article unim-

portant, he expresses unnecessarily a low estimate of the sincerity of the American Government. If that Government has found for the present intrinsic difficulties in the way of agreeing to a reciprocal right of visitation, at any rate it has taken a most important step, that cannot but tend to accelerate the accomplishment of the sole purpose contemplated by that right. Their squadron is now fitting out, nor is it to be doubted for a moment that, commanded by men of the known energy and good faith which have hitherto distinguished American naval officers, this force, co-operating with our own, will, ere long, give a deadly blow to the trade in slaves.

In the observations which Mr. Lemoinne makes upon the "Caroline," he has so far done justice to Great Britain, as to pronounce her proceedings upon that occasion to have been justifiable. Alluding to the correspondence of Lord Ashburton, he remarks :—

"Le ton de ces explications, que le Gouvernement Americain a considérées comme de véritables excuses, nous surprend d'autant plus qu'il est évident pour nous que l'Angleterre était ici parfaitement dans son droit*."

* The tone of these explanations, which the American Government has considered as real excuses, surprises us the more because it is evident that England upon this occasion was perfectly in the right.

But although he professes to have given a critical examination of this point of late difference between the two countries, he has been far from doing justice to the subject, as will appear from a very brief statement of the case.

The State of New York on its western border is separated from Canada by the River Niagara. According to the constitution of the United States, each State of the Union has jurisdiction over its own territory, and is governed by its own laws and authorities. By the same constitution the foreign relations of all the United States are committed to the Federal Government. Towards the close of the year 1837, some Canadian rebels having fled to the State of New York, and being there joined by various American citizens, fitted out a steamer called the "Caroline," supplied her with arms and ammunition, and by means of this vessel, and without being attempted to be stopped in their illegal enterprise by the authorities of New York, invaded and took possession of an island called Navy Island, belonging to Great Britain, from whence they commenced and kept up for several days a constant attack upon the unoffending inhabitants of the Canadian shore. The remonstrances of the British authorities being unattended to by those of the State of New York,

a night squadron of boats was fitted out for the purpose of proceeding to Navy Island and capturing the steam-boat "Caroline," she being supposed to be there at the time, as she plied daily between the American shore and the island, for the purpose of supplying the rebels and their associates with provisions, arms, and ammunitions. On reaching the island it was discovered that the steamer had removed from it, and was moored near the American shore to be ready for another trip the next morning. The British force immediately boarded and took possession of her, and it being found impossible to tow her through the strong current of the river, she was set on fire and left to drift over the Falls. Subsequent to this transaction a British subject was arrested and imprisoned by the New York authorities, on a charge of being one of the party that destroyed the "Caroline." The British Government at a later period avowed the act of the destruction of the vessel as a justifiable one, and claimed that McLeod, the individual in question, could not be held personally responsible for acts done by him at the command of his own sovereign. This principle was admitted without hesitation by the Government of the United States, which endeavoured to procure the liberation of McLeod from his imprisonment. The authorities of

New York, however, declared that their state laws must take their course, and that the interference of the authority of the Federal Government would not be permitted in this case; so that, through the intricacy of their inter-relations with their own States, the Federal Government was baffled in the execution of one of its most important constitutional functions. McLeod was at length discharged by a jury of the State of New York, and returned to his own country. At the period of Lord Ashburton's negotiations with Mr. Webster, this affair, as appears by this gentleman's letter of July 27, 1842, had taken the simple form of a complaint from the Federal Government, of a violation of their soil and territory. To this Lord Ashburton answers:—

“I believe I may take it to be the opinion
“of candid and honourable men, that the
“British officers who executed, and their Go-
“vernment who approved it, intended no slight
“or disrespect to the sovereign authority of the
“United States.”

In another part of his letter, he says:—

“Looking back to what passed at this time,
“what is perhaps most to be regretted is, that
“some explanation and apology for this occur-
“rence was not immediately made; this, with
“a frank explanation *of the necessity of the*

“ *case*, might and probably would have pre-
 “ vented much of the exasperation, and of the
 “ subsequent complaints and recriminations, to
 “ which it gave rise.”

It having been successfully demonstrated on the part of Great Britain, that the authorities of the State of New York were the first to fail in the respect due to the international relations of the two countries, and that the British authorities had been compelled, from the necessity of the case, to suppress the outrage committed upon her, in the manner they had done, but without in any way intending a disrespect to the United States, Mr. Webster, in his letter of the 6th of August, when speaking of the respect due “ to
 “ the inviolable character of the territory of
 “ independent States,” replies :—

“ Undoubtedly, it is just that, while it is
 “ admitted that exceptions growing out of the
 “ great law of self-defence do exist, those ex-
 “ ceptions should be confined to cases in which
 “ the necessity of self-defence is instant, over-
 “ whelming, and leaving no choice of means,
 “ and no moment for deliberation.”

The case of the “ *Caroline*” forming precisely such an exception, this delicate matter was finally settled upon this ground. Both parties agreed that an inviolable respect for the territory of independent States was an essential

principle of civilization, yet that certain cases must form exceptions to the observance of the principle, and the correspondence on this subject terminated by Mr. Webster's declaration that—

“ The President is content to receive these
 “ acknowledgments and assurances in the conciliatory spirit which marks your Lordship's
 “ letter, and will make this subject, as a complaint of violation of territory, the topic of
 “ no further discussion between the two Governments.”

But, independently of the advantage which each country secured to itself by this friendly arrangement of what at one time bore a very unpromising aspect, another important point connected with the subject has been conceded to Great Britain, which removes all apprehension of a recurrence of similar difficulties upon the frontier. The Federal Government having declared that no British subject can be held responsible by the State Courts for an act committed by the command of his sovereign, the Congress has now enacted a law, whereby the States surrender to the Federal Government the exclusive jurisdiction over cases similar to that of *McLeod*; so that hereafter no similar excitement can be created by the interference of State Courts. On this subject Mr. Webster, in

the same letter, where he apologetically states that "it was a subject of regret that the release of McLeod was so long delayed," declares "that the Government of the United States holds itself not only fully disposed, but fully competent to carry into practice every principle which it avows or acknowledges, *and to fulfil every duty and obligation which it owes* to foreign governments, their citizens or subjects."

So that not only the point of honour has been satisfactorily adjusted on both sides, but all the security that could be asked has been given to Great Britain, that the Federal Government will exercise its power to prevent the recurrence of the evil that led to this painful and dangerous misunderstanding*.

If Mr. Lemoine has sent out his paper to the world as the deliberate judgment of a man of candour and intelligence upon the merits of the Treaty of Washington, it is to be regretted that not even an allusion is made either to the friendly spirit in which this part of the negotiation was carried on, or to the great importance both to Great Britain and America of the Act of Con-

* If we may judge from the congratulations offered by the Parliament of Canada, to the Governor General, Sir Charles Bagot, the Treaty of Washington is as popular in that Province as it is in New Brunswick.

gress which has been alluded to. These guarantees of future friendship, with which the final close of this troublesome affair of the "Caroline" was accompanied, would seem to have been sufficiently apparent to any who had read the correspondence, as Mr. Lemoinne professes to have done.

Respecting the case of the "Creole," this writer has entirely adopted the principle upon which Great Britain has acted. He considers human liberty to constitute a general law of mankind, and that the local laws of states, which pretend to reduce men to slavery and to consider them as property, have no virtue where the jurisdiction of those states does not extend; and he reasons therefore correctly, that all men being free by the laws of Great Britain, are necessarily free in all British dependencies, under whatever circumstances they may have been brought there, or however they may be considered by the local laws of foreign states.

But Mr. Lemoinne, when he enters upon the discussion of the correspondence between Lord Ashburton and Mr. Webster on the subject of impressment, is not equally just to Great Britain; and with some warmth represents this country as pretending to accomplish what he had before shown America had improperly attempted to do, viz., to impose upon the

world a local law or practice as part of the law of nations.

“ C’est à son tour l’Angleterre qui veut
 “ généraliser l’application d’une loi purement
 “ nationale, et faire du droit Anglais le droit
 “ des nations*.”

Alluding to that part of the general argument of Mr. Webster, in his letter of August 8, 1842, on the subject of impressment, where he states that this practice cannot be defended upon the same ground as the common “right of visiting neutral ships for the purpose of discovering and seizing enemy’s property.”

Mr. Lemoine re-asserts from the same letter:—

“ There may be quite as just a prerogative
 “ to the property of subjects as to their personal
 “ service, in an exigency of the State.”

And then proceeding to represent the arguments of Mr. Webster (respecting the emigrants who annually leave this country for the United States), as having been triumphantly sustained against Lord Ashburton, he quotes the following passage from the same letter:—

“ It is stated that, in the quarter of the year
 “ ending with June last, more than twenty-six

* In her turn England seeks to render general the application of a law which is only national, and to establish an English right as the right of nations.

“ thousand emigrants left the single port of
 “ Liverpool for the United States, being four
 “ or five times as many as left the same port
 “ within the same period for the British colo-
 “ nies, and all other parts of the world. Of
 “ these crowds of emigrants, many arrive in our
 “ cities in circumstances of great destitution,
 “ and the charities of the country, both public
 “ and private, are severely taxed to relieve their
 “ immediate wants. In time they mingle with
 “ the new community in which they find them-
 “ selves, and seek means of living: some find
 “ employment in the cities; others go to the
 “ frontiers, to cultivate lands reclaimed from
 “ the forest; and a greater or less number of
 “ the residue, becoming in time naturalized
 “ citizens, *enter into the merchant service*, under
 “ the flag of their adopted country.

“ Now, my Lord, if war should break out
 “ between England and a European power, can
 “ anything be more unjust—anything more
 “ irreconcilable to the general sentiments of
 “ mankind—than that England should seek out
 “ those persons thus encouraged by her, and
 “ compelled by their own condition to leave
 “ their native homes, tear them away from their
 “ new employments, their new political rela-
 “ tions, and their domestic connexions, and
 “ force them to undergo the dangers and hard-

“ ships of military service, for a country which
 “ has thus ceased to be their own country?
 “ Certainly, certainly, my Lord, there can be but
 “ one answer to this question. Is it not far
 “ more reasonable that England should either
 “ prevent such emigration of her subjects, or
 “ that, if she encourage and promote it, should
 “ leave them, not to the embroilment of a
 “ double and contradictory allegiance, but to
 “ their own voluntary choice, to form such rela-
 “ tions, political or social, as they see fit, in the
 “ country where they are to find their bread,
 “ and to the laws and institutions of which they
 “ are to look for defence and protection ?”

On these passages adduced by M. Lemoinne,
 a few remarks will now be made, in order to
 restore the British practice of impressment to
 a proper interpretation of the right upon which
 it stands.

The allegiance which British subjects owe to
 their native country during their natural lives, is
 founded upon that law inherent to and acknow-
 ledged by all communities, the law of self-preser-
 vation. During the struggle of the United States
 to secure their independence, from 1776 to 1783,
 it was openly acted upon to the greatest extent.
 All the Loyalists there who adhered to the mother
 country were publicly proscribed by the revolted
 authorities, their property confiscated, and num-

bers of them executed. It is a law, however, which presses most stringently upon countries which, by reason of their limited extent and insular situation, find their independence peculiarly exposed. Such was the ancient situation of England before it became the powerful kingdom it now is. But even an occasion occurred during the present century, when the independent existence of our country was menaced, and it will not be denied that the law of self-preservation fully justified the Government at that time in compelling all the subjects of the Crown to aid in saving the country. Many of us yet live who remember the period when Napoleon Buonaparte had compelled all the maritime powers of Europe to arm against us—when, by his Berlin and Milan decrees, he had attempted to ruin our manufactures and commerce—and when he had assembled an immense army, insolent with success, for the invasion and conquest of our island. If the British Government of that day, cowering beneath the fearful cloud that was impending over us, had timidly regulated their proceedings with neutral powers, by entering into abstract discussions with them respecting their right to deprive this country of the aid of native British mariners, we might have drank the last dregs of humiliation by becoming a French depen-

dency. But the Government of that day was equal to the fearful crisis, and, supported by the generous spirit of the nation, were never diverted from their great object of saving the country—almost the only one that fearlessly raised the standard of self-government amidst the general wreck. America at that time became the great neutral carrying power; and, extending her commercial marine beyond the resources of her own population, tempted British sailors, anxious to enjoy immunity from service on board British men of war, and to receive high wages, to serve under the American flag. It followed, as a matter of course, that when our cruisers overhauled neutrals to search for enemies' property, these sailors, when recognized, were seized, and transferred to our own flag. Had they been permitted, upon mere abstract considerations, to continue to serve under a neutral flag, it is self-evident that the desertions from the British service would have been general, that our navies could not have been adequately manned, and might not have achieved those glorious naval victories which prepared the way for the pacification of Europe.

The practice, therefore, of impressment in extreme cases is justified by the law of self-preservation. In its purpose it intends nothing derogatory to the independence of neutral

powers, who, if they will seek to derive a profit from the service of British sailors, thus withdrawn by them from aiding in the defence of their native country, should be satisfied with a prompt and fair reparation for any inconveniences which may unavoidably arise from the exercise of this right. It is not to be denied, however, that in periods of war individuals have been impressed into our service who were not natives of Great Britain, but of the United States; and irregularities of this kind will sometimes occur, for the sailors of both countries are undistinguishable from each other in language, dress, and manners; and when examined, are always, for obvious reasons, found in the same story, viz., that they are natives of the United States. Under such circumstances British officers have no course left but to detain those who claim to be illegally impressed, until undoubted proofs are given that they are Americans, when they will always be released. But these irregularities only occur in times of war, and we never hear of foreign vessels being searched for British sailors during peace, because then the navy of England is easily manned. The assertion, therefore, of Mr. Lemoine, that Great Britain considers the practice of impressment as a part of international law, and that the British Government has the

same right to the property of her subjects as to their personal service in the exigency of the state, are altogether incorrect. And the fallacy of the analogy is shown by the marked difference which has always existed in the exercise of these rights, for the British subject is compelled by the prerogative to assist in maintaining the safety of his country by personal service, whilst his consent is necessary, through his representatives in Parliament, before his property can be taxed for the support of the Government.

For what purpose Mr. Lemoine introduces the passages quoted from Mr. Webster's letter of August 8th, but to exaggerate this ancient difficulty betwixt the two countries, cannot be imagined. Indeed, he represents this question as a slumbering volcano only waiting for a spark to explode once more. From the published correspondence accompanying this Treaty, and from the opening paragraph of that letter, it would appear that this question of impressment was introduced into discussion with Lord Ashburton at the instance of the American Government. The words of the paragraph are :—

“ We have had several conversations on the
 “ subject of impressment, but I do not under-
 “ stand that your Lordship has instructions from
 “ your Government to negotiate upon it, nor
 “ does the Government of the United States

“ see any utility in opening such negotiation,
 “ unless the British Government is prepared to
 “ renounce the practice in all future wars.”

Now the paragraphs which have been quoted represent that more than 26,000 emigrants left the port of Liverpool for the United States during the quarter ending in the month of June, 1842, and afterwards proceeding to state that a greater or less number of them become in time naturalized citizens, and “ enter “ into the merchant service, under the flag of “ their adopted country,” appeal powerfully to Lord Ashburton, whether anything can be more unjust than that England should seek out such persons, tear them away from their homes, and “ force them to undergo the dangers and hardships of military service for a country which “ has thus ceased to be their own country.”

If Mr. Lemoinne supposes that Great Britain ever does seek out such persons to tear them away from their homes, and force them into military service, and that these farmers, weavers, and artisans, who emigrate from this country, take so serious a step for the purpose of entering into the merchant service of America, and that they can by any possibility become subject to impressment for the naval service of this country, he is very much mistaken. These persons go to America, some for the purpose of

purchasing cheap lands, others in the hope that they may find profitable employment, until they are able to do the same thing. The commercial marine of this country is surely extensive enough to warrant the belief that if the emigrants from our shores had no object but to find employment in merchant vessels, they could find it at home, and would not emigrate.

Mr. Lemoinne concludes his work by expressing his conviction that the spirit which prevailed in the negotiations at Washington, and the passage of the Tariff Act, which took place immediately after them, tend rather to weaken than to strengthen the friendly feelings between the two countries.

“Cependant l'esprit qui a présidé aux négociations échangées entre les deux Gouvernemens, et le tarif restrictif dont les Etats Unis, ont fait suivie immédiatement la signature du Traité, sont plutôt de nature à affaiblir qu'à ranimer les sentimens de bonne harmonie entre l'Angleterre et l'Amérique*.”

It would be superfluous to remark that,

* Nevertheless, the spirit which presided over the negotiations exchanged between the two Governments, and the restrictive tariff which the United States enacted immediately after the signature of the Treaty, tend more to weaken than strengthen the feelings of good harmony between England and America.

although this opinion may, or may not, reflect the wish of the writer, yet it derives no strength either from the conduct of the negotiation or the articles of the Treaty. That this public act will be eminently conducive to the permanent preservation of peace between the two countries, may safely be left to the impartial judgment of all persons who, uninfluenced by prejudice, will give proper weight to the facts which have been now set forth, and which challenge contradiction. The Tariff, it is well known, followed the execution of the Treaty, not because the measure was intended to restrain the importation of British goods into the United States, but because the urgency of the American Treasury required the immediate passage of a Bill, for the purpose of revenue. It passed, too, amidst great opposition from that very powerful party in the United States, which has always been opposed to enactments founded upon the protection ostensibly given to domestic manufactures. Experience has since proved that the measure is not to be relied upon for the purpose for which it was passed.

If anything were susceptible of the fullest proof, it would seem to be, that the utter derangement of the currency in that country, and the unparalleled degradation of its credit, have been fatal to its manufactures. In the

best of times, when the capital of the American manufacturer could be borrowed at a moderate interest, and he was protected by high duties, he could scarcely maintain himself against the competition of this country, which had capital, experience, and cheap labour in its favour. Hereafter it will be seen, that the real question for the British manufacturer is not whether he can continue a competitor in that market with the American manufacturer, but whether he can rely upon the solvency of the market itself; and one of the greatest advantages which recommends this Treaty to all considerate persons at home, is, that dissipating every apprehension of an interruption to the peace of the two countries, it will inspire the capitalist, the merchant, and the manufacturer, with confidence to set about the important work of placing the commercial intercourse betwixt Great Britain and America on a basis that shall be both profitable and safe! This great measure, too, now so happily accomplished, which secures all the interests of our own country, whilst it has satisfied the friends of peace in America, has not only enabled Her Majesty's Government to withdraw the greater part of the British army from Canada, but has produced the important political effect of detaching the United States from the danger of

entangling alliances not favourable to the free assertion of British rights and power in other quarters.

These considerations, which are first in importance amongst those suggested by the Treaty of Washington, claim our most serious attention, and call upon all our countrymen not only to refuse their countenance to the misstatements and sophistries which are put forth in other countries for any purpose but that of being useful to Great Britain, but to unite in cordial approbation of the success of a mission; which, if it is to be estimated by the peaceful and generous character of the motives that led to it, and the benefits mankind will derive from it, will take its place in our annals as an enduring monument of the moderation and wisdom of the Councils of Great Britain.

London, February 1, 1843.

SUPPLEMENT.

SINCE the preceding pages were sent to press and made ready for publication, an unexpected piece of information has transpired, so vitally connected with the late negotiations at Washington, that the Author, even after the pamphlet has been announced for sale, has felt himself compelled, by its unparalleled importance, to lay it before the world.

The mission of Lord Ashburton was founded not only upon those considerate and just views which have been stated in the preceding pages, but upon the implicit confidence placed by Her Majesty's Government in the sincerity of those solemn and repeated declarations of all the branches of the American Government, that that belief in the justice of their claim, which they had rendered so general in their own country, arose from an honest conviction that it was founded in truth, and that it accorded both with the physical geography of the country, and the intentions of the Negotiators of the Peace of 1783.

It has been already remarked at page 26, that the same conviction of right apparently existing

in both countries, neither of them could give way to the extent of the claim of its opponent, and that the friends of peace would therefore naturally desire to resort to a peaceful compromise. It was this which rendered Lord Ashburton's position at Washington so respectable; he had been sent there as the representative of a powerful Sovereign, and a Government which was convinced of the justice of its claim; but which, preferring the blessings of peace to objects not essential to the welfare of Great Britain, had generously offered to lay aside her own unquestionable title, and to enter upon a friendly compromise, under the sanction of that good faith so necessary to the international transactions of all governments, and without which no government can be either respected or feared.

Lord Ashburton was, to all appearances, met in the same spirit by those with whom he had to negotiate. Mr. Webster, in his letter to him, dated Washington, July 8, 1842, says,

"I must be permitted to say that few questions have ever arisen under this Government in regard to which *a stronger or more general conviction was felt that the country was in the right, than this question of the north-eastern boundary.* To say nothing of the sentiments of the Government and people of the States more directly interested, whose opinions may

“ be supposed capable of bias, both Houses of
 “ Congress, after full and repeated considera-
 “ tion, have affirmed the validity of the American
 “ claim, by a unanimity experienced on very few
 “ other subjects ; and the general judgment of
 “ the whole people seems to be the same way.”

And again:

“ The question before us, is whether these
 “ confident opinions, on both sides, of the *right-*
 “ *ful nature and just strength* of our respective
 “ claims, will permit us, while a desire to pre-
 “ serve harmony, and a disposition to yield libe-
 “ rally to mutual convenience so strongly incites
 “ us, to come together and to unite on a line
 “ by agreement.”

It now becomes necessary to state that the sincere conviction entertained by Her Majesty's Government, of the justice of the British claim, was not solely founded upon the accordance of the physical geography of the country in dispute with the second article of the Treaty of 1783, as established in the Report which was laid before Parliament in 1840; but was confirmed by documentary evidence, and by certain ancient maps, upon which the Boundary, established at the Peace of 1783, was laid down precisely as it is in Map A in the Report of 1840, that is to say, *south of the St. John.*

It was well known also that authentic maps

of this kind had existed, but unfortunately they could not be found, many of the public and private papers, connected with the Treaty of 1783, having disappeared during the various changes in the departments of the Government about that period. Shortly, however, after the departure of Lord Ashburton, an ancient map, which had apparently been hid away for near sixty years, was discovered in one of the public offices, with a *red line* drawn upon it, exactly conforming to the British claim; and upon a careful consideration of all the circumstances connected with it, no doubt was entertained that that map was one of the maps used by the Negotiators of the Treaty of 1783, and that the *red line* marked upon it designated the direction of the Boundary they had established. But this map was not signed, *and could not be authenticated*. A map, however, engraved in 1785, only a year perhaps after the ratification of the Treaty, by W. Faden, Geographer to the King, was taken to the United States by Lord Ashburton; this was evidently copied from an official map, and probably from the one last mentioned: it had the Boundary line traced in the copper, and was coloured, exactly in the same direction with the *red line* on the map that could not be authenticated, running from the St. Croix, *along the Highlands, south of the St. John*, and thence to the Lake

of the Woods, according to the terms of the Treaty. This map of Faden's was strong evidence of what was considered to have been the established boundary at that time, and deserved much consideration from the circumstance of its being a semi-official map which had never been objected to by the Government of the United States at any time after its appearance. In a letter of the Maine Commissioners to Mr. Webster, dated Washington, June 29th, 1842, it appears that this map had been submitted to them, and in long passage respecting it, remarkable for its sneers, they seem to be satisfied with impeaching its value as evidence, in the following words:—

“The map (Faden's) referred to is a *small one*,
“*of small pretensions.*”

The reader will now be prepared for an extract from the *Washington Globe* the late official newspaper of Presidents Jackson and Van Buren. It is from the speech of Mr. Rives, a senator from Virginia, delivered in a Secret Session of the Senate of the United States, held for the purpose of discussing the ratification of the late Treaty. This gentleman was Chairman of the Committee on Foreign Relations, the most responsible situation in that body. It is evident from this speech, which is an extremely long one of five columns, that he was labouring to overcome the reluctance of many members of that

body to vote for the ratification of the Treaty; and the principal argument he relies upon is, that if they do not consent to receive what is conceded to them by Lord Ashburton's Treaty, they will compel the dispute to be referred to a second arbitration, with very great danger of their losing the whole; *Mr. Webster, the Secretary of State, having communicated to him, to be laid before the Senate, a copy of an original map presented by Dr. Franklin to Count de Vergennes, with the Boundary as agreed upon in the Treaty of 1783, traced by himself upon it with a strong red line, south of the St. John, and exactly where the red line appears in the ancient maps which have been alluded to, and where it was demonstrated in the Report laid before Parliament in 1840, to have been the intention of the Negotiators of the Peace of 1783 to establish it.*

Any comment upon this transaction would be almost superfluous: the speech of Mr. Rives, from which the extract is taken, was authorized to be published by the Senate itself when it dissolved the injunction of secrecy. There being no room, therefore, to doubt its authenticity, we are unavoidably brought to a conviction that whilst the highest functionaries of the American Government were dealing with Lord Ashburton with a seeming integrity, they were, in fact, deceiving him; and that whilst they were pledging

the faith of their Government for a perfect conviction of the justice of their claim to the territory which was in dispute, they had the highest evidence in their possession which the nature of the case admitted of, that the United States never had had the slightest shadow of right to any part of the territory which they have been disputing with Great Britain for near fifty years. Thus confirming what was stated in the Report laid before Parliament in 1840,—

“That the conclusions upon which the American case rests, instead of being the legitimate results of practical investigation, are unsubstantial inventions brought forward in the absence of all real investigation; conveying erroneous ideas of the nature of the country, and calculated to mislead public opinion in the United States and in Europe, as to the merits of this question.”

Extract from the *Washington Globe*, from the speech of Mr. Senator Rives, delivered in Secret Session of the Senate of the United States, August 17, 19, 1842.

It appears to the committee, therefore, in looking back to the public and solemn acts of the Government, and of its successive administrations, that the time has passed, if it ever existed, when we could be justified in making the precise line of boundary claimed by us the subject of a *sine qua non* of negotiation, or of the *ultima ratio* of an assertion by force. Did a second arbitration,

then, afford the prospect of a more satisfactory result? This expedient seemed to be equally rejected by all parties—by the United States, by Great Britain, and by the State of Maine. If such an alternative should be contemplated by any one as preferable to the arrangement which has been made, it is fit to bear in mind the *risk and uncertainty*, as well as the inevitable delay and expense, incident to that mode of decision. We have already seen, in the instance of the arbitration by the King of the Netherlands, how much weight a tribunal of that sort is inclined to give to the argument of *convenience*, and a supposed *intention* on the part of the negotiators of the Treaty of 1783, against the literal and positive terms employed by the instrument in its description of limits. Is there no danger, in the event of another arbitration, that a farther research into the public archives of Europe might bring to light some embarrassing (even though apocryphal) document, to throw a new shade of plausible doubt on the clearness of our title, in the view of a sovereign arbiter? Such a document has already been communicated to the committee; and I feel it (said Mr. R.) to be my duty to lay it before the Senate, that they may fully appreciate its bearings, and determine for themselves the weight and importance which belong to it. It is due to the learned and distinguished gentleman, (Mr. Jared Sparks of Boston,) by whom the document referred to was discovered in the archives of France, while pursuing his laborious and intelligent researches connected with the history of our own country, that the account of it should be given in his own words, as contained in a communication *addressed by him to the Department of State*. I proceed, therefore, to read from that communication:—

“While pursuing my researches among the voluminous papers relating to the American Revolution in the *Archives des Affaires Etrangères* in Paris, I found in one of the bound volumes an original letter from Dr. Franklin to Count de Vergennes, of which the following is an exact transcript:—

" 'Passy, December 6, 1782.

" 'SIR,—I have the honour of returning herewith the map your Excellency sent me yesterday. I have marked with a *strong red line*, according to your desire, the limits of the United States, as settled in the preliminaries between the British and American plenipotentiaries.

" 'With great respect, I am, &c.,

" 'B. FRANKLIN.'

" This letter was written six days after the preliminaries were signed; and if we could procure the identical map mentioned by Franklin, it would seem to afford *conclusive evidence* as to the meaning affixed by the Commissioners to the language of the Treaty on the subject of the boundaries. You may well suppose that I lost no time in making inquiry for the map, not doubting that it would confirm all my previous opinions respecting the validity of our claim. In the geographical department of the Archives are sixty thousand maps and charts; but so well arranged with catalogues and indexes, that any one of them may be easily found. After a little research in the American division, with the aid of the keeper, I came upon a map of North America, by D'Anville, dated 1746, in size about eighteen inches square, on which was drawn a *strong red line* throughout the entire boundary of the United States, answering precisely to Franklin's description. The line is bold and distinct in every part, made with red ink, and apparently drawn with a hair-pencil, or a pen with a blunt point. There is no other colouring on any part of the map.

" *Imagine my surprise on discovering that this line runs wholly south of the St. John's, and between the head waters of that river and those of the Penobscot and Kennebec. In short, it is exactly the line now contended for by Great Britain, except that it concedes more than is claimed. The north line, after departing from the source of the St. Croix, instead of proceeding to Mars Hill, stops far short of that point, and turns off to the west, so as to leave on the British side all the streams which flow into the St. John's, between the*

source of the St. Croix and Mars Hill. It is evident that the line, from the St. Croix to the Canadian highlands, is intended to exclude *all the waters* running into the St. John's.

"There is no positive proof that this map is actually the one marked by Franklin; yet, upon any other supposition, it would be difficult to explain the circumstances of its agreeing so perfectly with his description, and of its being preserved in the place where it would naturally be deposited by Count de Vergennes. I also found another map in the Archives, on which the same boundary was traced in a dotted red line with a pen, apparently copied from the other.

"I enclose herewith a map of Maine, on which I have drawn a strong black line, corresponding with the red one above mentioned."

I am far from intimating (said Mr. Rives) that the documents discovered by Mr. Sparks, curious and well worthy of consideration as they undoubtedly are, are of weight sufficient to shake the title of the United States (!!!) founded on the positive language of the Treaty of Peace. but they could not fail, in the event of another reference, to give increased confidence and emphasis to the pretensions of Great Britain, and to exert a corresponding influence upon the mind of the arbiter. It is worth while, in this connexion, to turn to what Lord Ashburton has said, in one of his communications to Mr. Webster, when explaining his views of the position of the highlands described in the Treaty:—

"My inspection of the maps, and my examination of the documents," says his Lordship, "lead me to a very strong conviction that the Highlands contemplated by the negotiators of the Treaty were the only Highlands then known to them—at the head of the *Penobscot*, *Kennebec*, and the rivers west of the *St. Croix*; and that they did not precisely know how the north line from the St. Croix would strike them; and if it were not my wish to shorten this discussion, I believe a very good argument might be drawn from the words of the Treaty in proof of this. In the negotiations with Mr. Livingston, and afterwards with Mr. M'Lane, this view seemed to prevail; and, as you are aware, there were proposals to

search for these Highlands to the west, where alone, I believe, they will be found to answer perfectly the description of the Treaty. *If this question should unfortunately go to a further reference, I should by no means despair of finding some confirmation of this view of the case."*

It is for the Senate to consider (added Mr. Rives) whether there would not be much risk of introducing new complications and embarrassments in this controversy, by leaving it open for another litigated reference; and if the British Government—strongly prepossessed, as its minister tells us it is, with the justice of its claims—would not find what it would naturally consider a persuasive "confirmation of its view of the case" in documents, such as those encountered by Mr. Sparks in his historical researches in the archives of France.

A map has been vauntingly paraded here, from Mr. Jefferson's collection, in the zeal of opposition, (without taking time to see what it was,) to confront and invalidate the map found by Mr. Sparks in the Foreign Office at Paris; but, the moment it is examined, it is found to sustain, by the most precise and remarkable correspondence in every feature, the map communicated by Mr. Sparks. The Senator who produced it could see nothing but the microscopic dotted line running off in a north-easterly direction; *but the moment other eyes were applied to it, there was found, in bold relief, a strong red line, indicating the limits of the United States according to the Treaty of Peace, and coinciding, minutely and exactly, with the boundary traced on the map of Mr. Sparks.* That this red line, and not the hardly visible dotted line, was intended to represent the limits of the United States according to the Treaty of Peace, is conclusively shown by the circumstance, that the red line is drawn on the map all around the exterior boundary of the United States;—through the middle of the Northern Lakes, thence through the Long Lake and the Rainy Lake to the Lake of the Woods; and from the western extremity of the Lake of the Woods to the river Mississippi; and along that river to the point where the boundary of the United States, according to the Treaty of Peace,

leaves it, and thence, by its easterly course, to the mouth of the St. Mary's, on the Atlantic.

Here, then, is a most remarkable and unforeseen confirmation of the map of Mr. Sparks, *and by another map of a most imposing character, and bearing every mark of high authenticity.* It was printed and published in Paris, in 1784, (the year after the conclusion of the peace,) by Lattré, *graveur du Roi*, (engraver of maps, &c., to the King.) It is formally entitled on its face, a "Map of the United States of America, *according to the Treaty of Peace of 1783*" ("Carte des États Unis de l'Amérique, suivant le Traité de Paix de 1783"). It is "dedicated and presented" (*dediée et présentée*) "to his Excellency Benjamin Franklin, Minister Plenipotentiary of the United States of America, near the court of France," *and while Dr. Franklin yet remained in Paris, for he did not return to the United States till the spring of the year 1785.* Is there not, then, the most plausible ground to argue that this map, professing to be one constructed "according to the Treaty of Peace of 1783," and being "dedicated and presented" to Dr. Franklin, the leading negotiator who concluded that treaty, and who yet remained in Paris while the map was published, was made out *with his knowledge, and by his directions*; and that, corresponding as it does *identically* with the map found by Mr. Sparks in the Archives of the Foreign Affairs in Paris, they both partake of the same presumptions in favour of their authenticity.

A TREATY

To settle and define the Boundaries between the Possessions of Her Britannick Majesty in North America, and the Territories of the United States;—for the final suppression of the African Slave Trade;—and for the giving up of Criminals, fugitives from Justice, in certain cases.

WHEREAS certain portions of the Line of Boundary between the British Dominions in North America and the United States of America, described in the Second Article of the Treaty of Peace of 1783, have not yet been ascertained and determined, notwithstanding the repeated attempts which have been heretofore made for that purpose; and whereas it is now thought to be for the interest of both Parties that, avoiding further discussion of their respective rights, arising in this respect under the said Treaty, they should agree on a Conventional Line in said portions of the said Boundary, such as may be convenient to both Parties, with such equivalents and compensations as are deemed just and reasonable:—And whereas, by the Treaty concluded at Ghent on the 24th day of December, 1814, between His Britannick Majesty and the United States, an Article was agreed to and inserted, of the following tenor, viz.: “Art. X. Whereas the Traffic in Slaves is “irreconcilable with the principles of humanity and “justice; and whereas both His Majesty and the “United States are desirous of continuing their efforts “to promote its entire abolition; it is hereby agreed, “that both the Contracting Parties shall use their best “endeavours to accomplish so desirable an object:”—

And whereas, notwithstanding the laws which have at various times been passed by the two Governments, and the efforts made to suppress it, that criminal traffick is still prosecuted and carried on ; and whereas Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the United States of America, are determined that, so far as may be in their power, it shall be effectually abolished :—And whereas it is found expedient for the better administration of justice, and the prevention of crime within the territories and jurisdiction of the two Parties, respectively, that persons committing the crimes hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up :—Her Britannick Majesty, and the United States of America, having resolved to treat on these several subjects, have for that purpose appointed their respective Plenipotentiaries to negotiate and conclude a Treaty, that is to say : Her Majesty the Queen of the United Kingdom of Great Britain and Ireland has, on Her part, appointed the Right Honourable Alexander Lord Ashburton, a Peer of the said United Kingdom, a Member of Her Majesty's Most Honourable Privy Council, and Her Majesty's Minister Plenipotentiary on a Special Mission to the United States ; and the President of the United States has, on his part, furnished with full powers Daniel Webster, Secretary of State of the United States ; who, after a reciprocal communication of their respective Full Powers, have agreed to and signed the following Articles :—

ARTICLE I.

It is hereby agreed and declared, that the Line of Boundary shall be as follows :—Beginning at the monument at the source of the River St. Croix, as designated and agreed to by the Commissioners under the Fifth

Article of the Treaty of 1794, between the Governments of Great Britain and the United States; thence north, following the exploring line run and marked by the Surveyors of the two Governments in the years 1817 and 1818, under the Fifth Article of the Treaty of Ghent, to its intersection with the River St. John, and to the middle of the channel thereof; thence up the middle of the main channel of the said River St. John to the mouth of the River St. Francis; thence up the middle of the channel of the said River St. Francis, and of the lakes through which it flows, to the outlet of the Lake Pohenagamook; thence south-westerly, in a straight line, to a point on the north-west branch of the River St. John, which point shall be ten miles distant from the main branch of the St. John, in a straight line and in the nearest direction; but if the said point shall be found to be less than seven miles from the nearest point of the summit or crest of the highlands that divide those rivers which empty themselves into the River St. Lawrence from those which fall into the River St. John, then the said point shall be made to recede down the said north-west branch of the River St. John, to a point seven miles in a straight line from the said summit or crest; thence in a straight line, in a course about south, eight degrees west, to the point where the parallel of latitude of $46^{\circ} 25'$ north, intersects the south-west branch of the St. John's; thence south-erly by the said branch, to the source thereof in the highlands at the Metjarmette Portage; thence down along the said highlands which divide the waters which empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, to the head of Hall's Stream; thence down the middle of said stream, till the line thus run intersects the old Line of Boundary surveyed and marked by Valentine and Collins previously to the year 1774 as the 45th degree of north

latitude, and which has been known and understood to be the line of actual division between the States of New York and Vermont on one side, and the British Province of Canada on the other; and from said point of intersection west along the said dividing line, as heretofore known and understood, to the Iroquois, or St. Lawrence River.

ARTICLE II.

It is moreover agreed, that from the place where the joint Commissioners terminated their labours under the Sixth Article of the Treaty of Ghent, to wit, at a point in the Neebish Channel, near Muddy Lake, the Line shall run into and along the ship channel between St. Joseph's and St. Tammany Islands, to the division of the channel at or near the head of St. Joseph's Island; thence turning eastwardly and northwardly around the lower end of St. George's or Sugar Island, and following the middle of the channel which divides St. George's from St. Joseph's Island; thence up the east Neebish Channel nearest to St. George's Island, through the middle of Lake George; thence west of Jonas' Island into St. Mary's River, to a point in the middle of that river about one mile above St. George's or Sugar Island, so as to appropriate and assign the said island to the United States; thence adopting the line traced on the maps by the Commissioners, through the River St. Mary and Lake Superior, to a point north of Ile Royale in said lake, one hundred yards to the north and east of Ile Chapeau, which last-mentioned island lies near the north-eastern point of Ile Royale, where the line marked by the Commissioners terminates; and from the last-mentioned point south-westerly through the middle of the sound between Ile Royale and the north-western mainland, to the mouth of Pigeon River, and up the said river to and through the north and

south Fowl Lakes, to the lakes of the height of land between Lake Superior and the Lake of the Woods; thence along the water-communication to Lake Saisaginnaga and through that lake; thence to and through Cypress Lake, Lac du Bois Blanc, Lac la Croix, Little Vermillion Lake, and Lake Namécan, and through the several smaller lakes, straits, or streams connecting the lakes here mentioned, to that point in Lac la Pluie, or Rainy Lake, at the Chaudière Falls, from which the Commissioners traced the line to the most north-western point of the Lake of the Woods; thence along the said line to the said most north-western point, being in latitude $49^{\circ} 23' 55''$ north, and in longitude $95^{\circ} 14' 38''$ west, from the observatory at Greenwich; thence, according to existing Treaties, due south to its intersection with the 49th parallel of north latitude, and along that parallel to the Rocky Mountains. It being understood that all the water-communications, and all the usual portages along the line from Lake Superior to the Lake of the Woods, and also Grand Portage from the shore of Lake Superior to the Pigeon River, as now actually used, shall be free and open to the use of the citizens and subjects of both countries.

ARTICLE III.

In order to promote the interests and encourage the industry of all the inhabitants of the countries watered by the River St. John and its tributaries, whether living within the Province of New Brunswick, or the State of Maine, it is agreed, that where by the provisions of the present Treaty, the River St. John is declared to be the Line of Boundary, the navigation of the said river shall be free and open to both parties, and shall in no way be obstructed by either; that all the produce of the forest, in logs, lumber, timber, boards, staves, or shingles, or of agriculture, not being manufactured, grown

on any of those parts of the State of Maine watered by the River St. John or by its tributaries, of which fact reasonable evidence shall, if required, be produced, shall have free access into and through the said river and its said tributaries, having their source within the State of Maine, to and from the sea-port at the mouth of the said River St. John's, and to and round the falls of the said river, either by boats, rafts, or other conveyance; that when within the Province of New Brunswick, the said produce shall be dealt with as if it were the produce of the said Province; that in like manner the inhabitants of the territory of the upper St. John, determined by this Treaty to belong to Her Britannick Majesty, shall have free access to and through the river for their produce, in those parts where the said river runs wholly through the State of Maine:—provided always that this agreement shall give no right to either Party to interfere with any regulations not inconsistent with the terms of this Treaty, which the Governments, respectively, of New Brunswick or of Maine may make respecting the navigation of the said river, where both banks thereof shall belong to the same Party.

ARTICLE IV.

All grants of land heretofore made by either Party within the limits of the territory which by this Treaty falls within the dominions of the other Party, shall be held valid, ratified, and confirmed to the persons in possession under such grants, to the same extent as if such territory had by this Treaty fallen within the dominions of the Party by whom such grants were made; and all equitable possessory claims, arising from a possession and improvement of any lot or parcel of land by the person actually in possession, or by those under whom such person claims, for more than six years before the date of this Treaty, shall in like man-

ner be deemed valid, and be confirmed and quieted by a release to the person entitled thereto, of the title to such lot or parcel of land, so described as best to include the improvements made thereon; and in all other respects the two Contracting Parties agree to deal upon the most liberal principles of equity with the settlers actually dwelling upon the territory falling to them respectively, which has heretofore been in dispute between them.

ARTICLE V.

Whereas, in the course of the controversy respecting the disputed territory on the North-eastern Boundary, some monies have been received by the authorities of Her Britannick Majesty's Province of New Brunswick, with the intention of preventing depredations on the forests of the said territory, which monies were to be carried to a fund called the "Disputed Territory Fund," the proceeds whereof it was agreed should be hereafter paid over to the parties interested, in the proportions to be determined by a final settlement of Boundaries; it is hereby agreed that a correct account of all receipts and payments on the said fund shall be delivered to the Government of the United States within six months after the ratification of this Treaty; and the proportion of the amount due thereon to the States of Maine and Massachusetts, and any bonds or securities appertaining thereto, shall be paid and delivered over to the Government of the United States; and the Government of the United States agrees to receive for the use of, and pay over to the States of Maine and Massachusetts, their respective portions of said fund; and further, to pay and satisfy said States, respectively, for all claims for expenses incurred by them in protecting the said heretofore disputed territory, and making a survey thereof in 1838: the Government

of the United States agreeing with the States of Maine and Massachusetts to pay them the further sum of three hundred thousand dollars, in equal moieties, on account of their ascent to the Line of Boundary described in this Treaty, and in consideration of the conditions and equivalents received therefor from the Government of Her Britannick Majesty.

ARTICLE VI.

It is furthermore understood and agreed, that for the purpose of running and tracing those parts of the line between the source of the St. Croix and the St. Lawrence River, which will require to be run and ascertained, and for marking the residue of said line by proper monuments on the land, two Commissioners shall be appointed, one by Her Britannick Majesty, and one by the President of the United States, by and with the advice and consent of the Senate thereof; and the said Commissioners shall meet at Bangor, in the State of Maine, on the 1st day of May next, or as soon thereafter as may be, and shall proceed to mark the line above described from the source of the St. Croix to the River St. John, and shall trace on proper maps the dividing line along said river, and along the River St. Francis to the outlet of the Lake Pohenagamook; and from the outlet of the said lake they shall ascertain, fix, and mark by proper and durable monuments on the land, the line described in the First Article of this Treaty; and the said Commissioners shall make to each of their respective Governments a joint report or declaration, under their hands and seals, designating such Line of Boundary, and shall accompany such report or declaration with maps, certified by them to be true maps of the new Boundary.

ARTICLE VII.

It is further agreed, that the channels in the River St. Lawrence on both sides of the Long Sault Islands and of Barnhart Island, the channels in the River Detroit, on both sides of the Island Bois Blanc, and between that Island and both the Canadian and American shores, and all the several channels and passages between the various islands lying near the junction of the River St. Clair with the lake of that name, shall be equally free and open to the ships, vessels, and boats of both Parties.

ARTICLE VIII.

The Parties mutually stipulate, that each shall prepare, equip, and maintain in service on the coast of Africa, a sufficient and adequate squadron, or naval force of vessels, of suitable numbers and descriptions, to carry in all not less than eighty guns, to enforce, separately and respectively, the laws, rights, and obligations of each of the two countries for the suppression of the Slave Trade; the said squadrons to be independent of each other, but the two Governments stipulating nevertheless to give such orders to the officers commanding their respective forces, as shall enable them most effectually to act in concert and co-operation, upon mutual consultation, as exigencies may arise, for the attainment of the true object of this Article; copies of all such orders to be communicated by each Government to the other respectively.

ARTICLE IX.

Whereas, notwithstanding all efforts which may be made on the coast of Africa for suppressing the Slave Trade, the facilities for carrying on that traffick, and avoiding the vigilance of cruizers, by the fraudulent use

of flags and other means, are so great, and the temptations for pursuing it, while a market can be found for slaves, so strong, as that the desired result may be long delayed, unless all markets be shut against the purchase of African negroes;—the Parties to this Treaty agree, that they will unite in all becoming representations and remonstrances with any and all Powers within whose dominions such markets are allowed to exist; and that they will urge upon all such Powers the propriety and duty of closing such markets effectually, at once and for ever.

ARTICLE X.

It is agreed that Her Britannick Majesty and the United States shall, upon mutual requisitions by them or their ministers, officers, or authorities, respectively made, deliver up to justice all persons who, being charged with the crime of murder, or assault with intent to commit murder, or piracy, or arson, or robbery, or forgery, or the utterance of forged papers, committed within the jurisdiction of either, shall seek an asylum, or shall be found within the territories of the other:—provided that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the crime or offence had there been committed; and the respective Judges and other Magistrates of the two Governments shall have power, jurisdiction, and authority, upon complaint made under oath, to issue a warrant for the apprehension of the fugitive or person so charged, that he may be brought before such Judges or other Magistrates, respectively, to the end that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the

duty of the examining Judge or Magistrate to certify the same to the proper executive authority, that a warrant may issue for the surrender of such fugitive. The expense of such apprehension and delivery shall be borne and defrayed by the Party who makes the requisition and receives the fugitive.

ARTICLE XI.

The Eighth Article of this Treaty shall be in force for five years from the date of the exchange of the Ratifications, and afterwards, until one or other Party shall signify a wish to terminate it. The Tenth Article shall continue in force until one or the other of the Parties shall signify its wish to terminate it, and no longer.

ARTICLE XII.

The present Treaty shall be duly ratified, and the mutual exchange of Ratifications shall take place in London within six months from the date hereof, or earlier if possible.

In faith whereof we, the respective Plenipotentiaries, have signed this Treaty, and have hereunto affixed our seals.

Done in duplicate at Washington, the ninth day of August, Anno Domini One thousand eight hundred and forty-two.

ASHBURTON.
(L.S.)

DANL. WEBSTER.
(L.S.)

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